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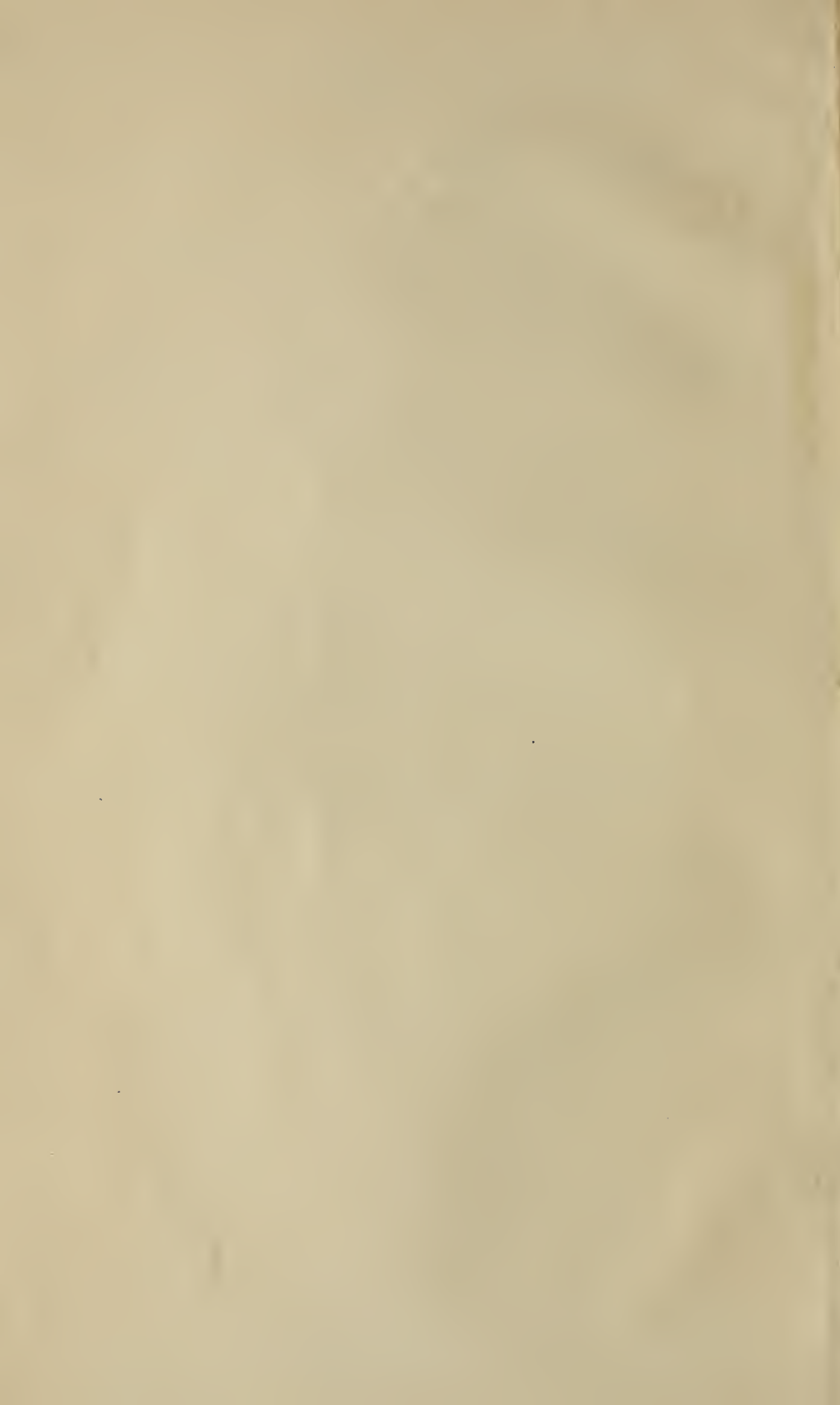
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Oration delivered in Congregational Church,
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134504

S P E E C H

OF

HON. HENRY EDGERTON,

DELIVERED IN THE SENATE OF CALIFORNIA, TUESDAY, APRIL 3, 1860.

MR. PRESIDENT :—Vast and stupendous as the scheme projected by this bill is represented to be, it is no new measure suddenly sprung upon our attention. For nearly ten consecutive years the public mind of the whole country has been busily employed in its examination, and, session after session, it has occupied a chief prominence in the deliberations of this body. Year after year special committees, invested with the amplest powers of investigation, have been formed in both branches of the Legislature to consider and report upon it; every fact that could reflect light upon it has been carefully collated and spread before us; objections of every conceivable kind have been patiently heard and maturely weighed; and the oracles of science and of the law have been consulted. In short, sir, the whole field of inquiry has been explored, until discovery is at an end—until the reason is satisfied, and experience and observation have given judgment that the bill contemplates a grand, beneficent enterprise; and that the commercial, agricultural, and industrial interests of the country demand its immediate accomplishment. Yet, strange to say, sir, the obstinacy of a groundless, hopeless, factious opposition, is not yet conquered, and a mean, groveling, persistent, and pernicious self-interest, refuses its assent even on compulsion of the clearest and severest proofs. And, here, sir, I cannot avoid a preliminary observation upon the proceedings and style of controversy adopted by the opponents of the measure. An Executive Committee is appointed in San Francisco to memorialize the Legislature against its passage; they present an address to this Senate marked by nothing but its violent, vindictive, and dictatorial tone, its gross perversion of facts, and its willful misrepresentation of the objects and features of the bill. A powerful and influential press has held it up to public gaze as a model of polished and concentrated wickedness, conceived by the Machiavelian skill of a few plundering banditti; while at

random, and weeks in advance, it utters the most terrible imprecations the genius of malignity can suggest against whomsoever dare form a different judgment upon it, or open his lips in its advocacy. Senators upon this floor, to excite hostility and prejudice against it, have personified it as a hideous monster, every hair of whose head is a hissing serpent, whose face is covered with iron wrinkles, whose mouth is filled with spikes, and whose eyes are balls of burning fire. Aye, sir, the power of superstition has been invoked; and it is said that when the scroll opened, and the voices of ten thousand people appealed to you for the passage of this act, the heavens shook, the earth opened, and the walls of the capitol trembled in expression of the wrathful rebuke of the Deity. Upon this style of controversy I have but one comment to make. I believe it sadly misconceives the character, the intelligence, the integrity, and temper, of this Senate. I believe every Senator has brought to the deliberation of this great measure a mind uninfluenced by the partiality of its friends or the malice of its enemies; and that now, as we are about to take final action upon it, we are prepared to act with an eye single to the public good, to public honesty; alike indifferent to public praise or public censure.

The deportment of the Senator from San Mateo (Mr. Phelps), and of the Senator from San Francisco (Mr. Peachy), toward the supporters of the measure, pending its consideration on this floor, has been most supercilious, unbefitting, and unsenatorial. The Senator from San Mateo has daily poured out his coarse eloquence of abuse upon the bill and its friends, and attributed the action of a majority of this Senate to the demoralizing, corrupting influence of hireling lobbyites. He has made startling charges of fraudulent, dishonest conduct against the President in forming the committee, and of corruption against the Engrossing Committee.

What purpose has that Senator sought to subserve, in thus arraigning the character of this body and of its officers? Has he entered into a conspiracy to bring this Senate into disgrace before the country? His course has been calculated to produce no other effect. It is true, these wholesale charges have been harmless here, for, so soon as they were made, they were followed by a compulsory, immediate, and humiliating retraction. But the correspondents of the *Bulletin* and *Alta*, in their greedy lust for scurrility and abuse, seize upon this stuff with eager avidity, manipulate it into sensation periods, and every morning appears in the columns of those journals, in ponderous capitals, bristling all over with exclamation points: "*Grave charges against the President of the Senate in the formation of the Bulkhead Committee!*" "*Corruption in the Senate Engrossing Committee!*" But those journals, true to their libelous trade, suppress the fact that these unfounded charges were immediately withdrawn.

Privately, my relations with the Senator from San Francisco (Mr. Peachy) have been pleasant and agreeable; but here, sir, my complacency stops. His conduct on this floor has been unparliamentary and offensive in the extreme. He proceeds on the theory that this measure is a piece of legislative theft, conceived by a gang of thieves; and that those of us who support it are accomplices in the theft. With an air of bravado and menace, he says: "Let the votes in favor of this measure go upon the record, there to remain forever." Sir, I invite the scrutiny of every honest, unbiased mind to the bill and to the part I have performed in its behalf, and I will fearlessly abide the intelligent judgment of the present and all future times; and, while I claim to be no more than the humblest friend of the measure on this floor—while I challenge no comparison with either of those Senators on the score of abilities—I nevertheless do claim

to be their full peer in integrity, and I hurl these insulting imputations back upon them with unutterable scorn and contempt. I apply to them the language of an eminent American statesman, and say to them, "that he who can see nothing but corruption in measures of great public usefulness must himself be sadly corrupt." Sir, these are the last frantic expedients of a routed, disorganized, discomfited opposition.

The remarks which I shall submit in this discussion will have particular reference to the minority report submitted by Messrs. Peachy and Parker. In my judgment, it is the ablest exposition of the views of the opponents of this measure which has yet been presented, and it will be my effort on this occasion to controvert the positions it assumes, and meet and refute the objections it urges against the passage of the bill.

And first, sir: is the construction of a bulkhead or sea-wall upon the water line front of the city of San Francisco, as established by the act of one thousand eight hundred and fifty-one, a necessity?

If so: is that necessity immediate and urgent? and

is it practicable to meet it?

These three topics are intricately united—so closely interwoven in the evidence that I shall treat them together. I now ask the attention of the Senate to a review of the testimony on these points.

Since the year one thousand eight hundred and fifty-three, there have been eight minute, scientific, and critical surveys of the condition and soundings of the harbor of San Francisco. These surveys have been made by competent, distinguished, disinterested Civil Engineers, veterans in their profession, many of them of varied and large experience in the construction of works similar to the work contemplated by this bill. To these I would add the maps of the harbor as published by the United States Coast Survey. They disclose the fact that since the year one thousand eight hundred and fifty-three, a rapid and unparalleled accumulation of mud has been constantly progressing in the harbor, or port of San Francisco, until it has formed an embankment five thousand feet long, six hundred feet wide, and eighteen feet in depth; that consequent upon this accumulation of mud, the soundings have diminished from an average, at low water mark, of fifteen feet at the heads of piers. At Cunningham's Wharf, where, in one thousand eight hundred and fifty-three, four vessels drawing the largest draft of water—nineteen, twenty, twenty-four, and twenty-six feet—lay, with ease; in one thousand eight hundred and fifty-nine small sloops and schooners rarely managed to get in at high water. The Great Republic has made three voyages to the port of San Francisco. On her first voyage, in one thousand eight hundred and fifty-six, she discharged her freight at Lombard and Greenwich docks. Then it required the aid of two steamers, two tides, and a powerful sixfold purchase to get her into her berth. In the year one thousand eight hundred and fifty-seven she made another voyage. Then she discharged her freight at the same docks. It then required the aid of the steamer Goliath, a sixfold purchase, and a powerful double headed capstan, which at the first voyage she was not compelled to use, to force her through the mud to her place at her berth. Since that time she has made another trip through the Golden Gate. It is now found necessary that she should lay out in the stream, and spend six days and a half discharging her cargo by the aid of lighters. And when they subsequently undertake to get her moored to her wharf, she meets with injuries from running on the mud and rocks, which will compel her owners to place her upon the dry dock and repair her, at an expense of between four and five thousand dollars. On the nineteenth of March, one thousand eight hundred and sixty, there were

lying in the stream of that harbor the following named clippers: the Great Republic, the Expounder, the Reporter, the ——; not one of which could find a berth in that port at which to lie and discharge. I state these facts on the authority of the General Wharfinger of that harbor, Mr. L. P. Edwards. At North Point Dock, Lombard Dock, Greenwich Dock, India Dock, Vallejo, Market, Mission, and Folsom Street wharfs, where, in one thousand eight hundred fifty-three and four, vessels of the largest class could approach and lie at ease, they can now only approach in a direct line, and that at high water and slack tide. If they go twenty or thirty feet from the dock they get on the old bed, and cannot reach the dock, except by the aid of steam. In the year one thousand eight hundred and fifty-nine, the ship Lockett, drawing eight feet, discharged her freight at Market Street Wharf. She took in part of a cargo, carrying about eight hundred tons. She was compelled to trim after she got out of her wharf, about half way down the wharf; and after she got a little distance further from the wharf, they were compelled to trim her again—making an extra expense of two or three hundred dollars, in order to get that vessel out of the harbor. In one thousand eight hundred and fifty-seven, the Nicaragua Line of Steamships lay at Washington Street Wharf. The steamer Cortes lay at that wharf at the last trip in one thousand eight hundred and fifty-seven. There was sufficient water to accommodate these ships at that time. These steamships, in going out now from that station, without any coal, lie on the bar. The steamer Cortes grounded in one thousand eight hundred and fifty-seven, at a distance of seventy-five or one hundred feet from the end of the wharf. She stuck in the mud beyond the end of the pier. Now these are a few of the numberless instances which might be enumerated, which are disclosed in the testimony before the Senate, showing the fatal effects of the shoaling of the water of that harbor upon its commercial facilities.

These, sir, are the facts which stare us in the face upon the threshold of this inquiry, and they must be met and solved.

Whence, then, comes this vast accumulation of mud? Upon this subject there are two theories; the one springing from the history and condition of the harbor, proved by the sure and unerring results of experimental science, and by the daily observance of the laws of causes and effect; the other, fabricated from facts having no relation to that harbor, and generalized from observations carelessly and superficially made. Now, let us analyze this evidence, and see what theory is the true one. And here I would call the attention of the Senate to a fling contained in that minority report, in regard to the character of the Engineers making the reports favorable to this project. They are denominated "self-styled Civil Engineers." They are unfavorably compared with the Government Engineers of the United States.

Now, sir, the first survey that was made, was made by Sinot. In one thousand eight hundred and fifty-six, I believe, he made a survey that occupied him in actual practical experiments for a period of four months; and as there may have been some curiosity excited on the part of members of the Senate in regard to this man, I will tell you who Sinot was: He was a graduate of the Polytechnic School, in France, the highest scientific institution of that empire. For forty years he was engaged in the active pursuit of his profession. He was principal Engineer to the draining and sewerage system of France. He projected and successfully carried out several railroads in that country. He was the author of several works on civil engineering and architecture, all of a very high character. He enjoys, to-day, a European reputation for his great ability and scien-

time attainments. As I said, in one thousand eight hundred and fifty-six he made a survey of the harbor of San Francisco, and he made a report, in which he asserted that this work was practicable; and he gives us his theory in reference to the accumulation of mud in that harbor: The space between the water line front, as established by the act of one thousand eight hundred and fifty-one, and the line now known as Montgomery Street, was originally a cove or inlet of the bay, having for its bottom a large mud flat, with various degrees of depth, from eight to eighteen, forty-five, and fifty feet. The theory of Sinot, in brief, was, that the filling up of the water lots created by the act of one thousand eight hundred and fifty-one, with vast quantities of sand, stone, mud, and other material, thrown in for the purpose of getting a foundation for buildings, produced what in geology is called a glacierlike movement of mud, and this passed out from the land side into the bay.

We have, in addition, the testimony of Mr. J. P. Robinson. Mr. Robinson swears that he is a Civil Engineer by profession, having had some twelve or thirteen years experience. He swears that he has been engaged in the construction of several railroads; and he has also been engaged in the construction of a sea-wall at Portland, Maine. He indorses and reiterates the views and theory of Sinot.

Now, sir, I come to the evidence of another Engineer who comes within the rule of qualifications laid down by the opponents of this measure. He bears a commission from that great man of science—Uncle Sam:

SAN FRANCISCO, March 30th, 1857.

To the Trustees of the San Francisco Dock and Wharf Companies:

GENTLEMEN:—In reply to your resolution of the twenty-first instant, requesting that I should take the soundings of the depths of the water at the different wharves in the city of San Francisco, I have the honor to submit the notes in a fieldbook of the soundings which I have taken since the date of your resolution. Those soundings were made at Vallejo, Broadway, Pacific, Jackson, Washington, Clay, Central, Market, Mission, and Folsom Street wharfs, and show the depth of water, meaned from mean low water mark.

Want of time has prevented my making soundings midway between and beyond the wharves, where, in many places, the depth of water is said to be less than alongside of them. Enough has been done, however, to show that the filling up of the harbor has been very rapid, and that the necessity of a bulkhead can hardly be exaggerated. Every day's delay in the construction of such a work will render its final establishment more expensive and less permanent.

As my name has been inserted in a bill now before the Legislature, granting the right to construct a bulkhead, or sea-wall, on the water front of the city, I will take the occasion to state that I have no ends to serve except the prosperity of the city of San Francisco and the State of California, and that I shall examine every project without prejudice and with no other desire but to promote the general interests of our citizens.

The necessity of a sea-wall is overwhelming. It ought to be commenced at once under the authority of a statute which will strictly guard the interests of the city and State.

I am, gentlemen, very respectfully,

Your most obedient servant,

E. D. KEYES,
Captain United States Army.

He makes an allusion to a report of his connection with a certain bill then pending before the Legislature.

Now, I wish to call the attention of the Senate to a remarkable fact in this connection, and that is this: Last year a company of individuals in San Francisco filed a certificate of incorporation, or articles to incorporate an association, under the name of "The Sea-wall and Wharf Company." They formed a company for the express purpose of getting this franchise from the Legislature. They represented capital of four million five hundred thousand dollars of money, and asked that franchise for the period of fifty years—the same time mentioned in this bill. Now, I call the attention of the Senate to the memorial sent to the Senate by gentlemen in San Francisco, who get together and pass pompous resolutions, denying the necessity of this measure and denouncing it as a swindle.

Among the signatures to that certificate of incorporation I find the names of the following incorporators: L. Maynard, Robert Roxby, R. E. Brewster, and W. F. Babcock. In pursuance of the purposes indicated in that certificate of incorporation, a bill was introduced into the Senate providing for a grant of this same franchise to these gentlemen; these same gentlemen are this year memorializing you against the passage of this act, denying its necessity, and denouncing it as a swindle.

The memorialists deny all these things, which the men whose names are attached to the certificate of incorporation asked for. This bill provides for the granting of the identical privileges that these parties last year asked for, and this year denounce. What respect have you, sir; what respect can members of this Senate have for gentlemen who have placed themselves in inconsistent positions like these? But this is not all. I have another piece of evidence, coming from high authority in the estimation of the Senator from San Francisco (Mr. Peachy), and the Senator from San Mateo (Mr. Phelps). Another Civil Engineer, bearing this same commission from the United States Government, writes as follows:

SAN FRANCISCO, March 12th, 1860.

Horatio S. Gates, Esq., President of San Francisco Dock and Wharf Company:

DEAR SIR:—I have received your note of this date, asking my opinion "whether the filling up of the harbor of San Francisco was caused by the filling in of the water lots inside of the water line of one thousand eight hundred and fifty-one; if so, whether a sea-wall would obviate the difficulty, and whether it is practicable?" And would reply, that since my attention was lately called to the subject I have studied with much care the plan and profiles appended to the report made to your company by J. P. Robinson, Esq., and have examined, so far as time has permitted, the action going on at certain points; and the opinion based upon the information so obtained is: That while the wharfs do, by checking the tidal currents, tend to retain as well as to favor the deposit of floating matter, the great bulk of the matter so deposited comes from the filling, or from original material displaced by it, and it follows that a retaining wall would, by confining this, obviate much of the difficulty.

In regard to the remaining question, I would add that while the construction of the work would probably present some great difficulties, I see no reason to doubt its practicability.

Respectfully,

Your obedient servant,

A. S. BENDER.

But again, sir, we have the testimony of Mr. Turner, another Civil Engineer. Mr. Turner swears that he has been engaged in the pursuit of his profession for many years. He confined his observations for several years in and about the port of San Francisco, and he carries out the theory of Sinot, corroborates it throughout all his testimony, and gives many facts—which I will not occupy the attention of the Senate by detailing—in support of them.

Again, we have the testimony of Mr. Ordeman. He swears that he has been a Civil Engineer for twenty-one years. He has been in the government employ, engaged in the construction of important works at Memphis; engaged in the construction of a sea-wall in Pensacola Bay. Now, he is a disinterested party—for he swears that, as far back as one thousand eight hundred and fifty-four, he, at the instigation of Captain Folsom, made practical surveys at the foot of Vallejo Street, with a view to ascertain the effect upon the bay of the filling in of the lots, and he swears that he has actually seen vast masses of mud filling in at high tide. He goes on to say that this work was then practicable; that a stone wall can be built there, and that such a construction ought to be resorted to in order to protect the integrity of the city front, its grade and sewerages, and also protect the harbor of San Francisco.

We also have the testimony of Mr. Williams, an Architect. He has been engaged in the construction of a great many stone and brick walls on the water lots of the city of San Francisco. He testifies that there is not sufficient foundation, or any foundation of a permanent character, to be had upon the new lots without pilings. He, too, observed the effect upon the bay of this filling in, and he corroborates Sinot's theory.

We have the evidence, also, of Mr. Stanton, Mr. Perkins, Mr. Bachelor, and Mr. Brown, all going to the same effect, and all corroborating and reiterating the theory I have advanced on the subject.

In addition to that, we have the experiments with the diving bell. It is in evidence, that at flood-tide persons going down in diving bells at the head of the piers or wharfs can see clearly and distinctly all about them; whereas, when they go down at ebb tide, the mud is so thick as to entirely obstruct the vision.

Again, we have the testimony afforded by chemical analysis of the waters by Drs. Landsveert and Dowling. They made an analysis of the waters in the bay opposite the heads of the piers, showing that a substance foreign to that which is called marine deposit existed in large quantities.

Now, against all this array of testimony, what do we have from the other side? We have the evidence—if it is evidence—of Mr. Alden and Mr. Gilmer. Now, sir, I have no reflections to cast upon Engineers in the service of the United States. I am willing to concede, for the purposes of this argument, that they are all eminent men, competent and distinguished engineers; but I do say, that the testimony discloses this fact: that they have not taken observations sufficient to enable them to give any positive opinion, and this fact, indeed, is sworn to by some of the parties. So it is with the explanation of Mr. Davidson. Now, let us analyze this evidence for a moment. Mr. Alden swears that he is not a Civil Engineer. He swears that it is merely his business to measure distances and take soundings; that he has not had scientific curiosity enough to lead him to the study of the laws of cause and effect. We have scientific testimony in regard to the condition of this harbor, with respect to the filling in of mud, etc., and yet he undertakes to advance the assertion that it will require a year to make sufficient surveys in order to form plans

and specifications whereby this project may be carried out in practical execution. Now, what is the value of such testimony? He swears he is not an Engineer, and yet he undertakes to give an opinion with regard to this matter which, it is claimed, should rule this Senate and the country.

Mr. Gilmer, in his evidence, as I shall attempt to show, carries out the very theory promulgated and insisted upon by these bulkhead men. In the first place, the construction of a sand embankment must of necessity operate to form the best basis for land and the permanent gradations and sewerages of that city.

In addition to that, we have the evidence of Cheever, Goddell, and Noyes, and Mr. George Gordon. I shall pay my particular respects to this last named gentleman hereafter—so I let him entirely out in the consideration of this evidence, for reasons which I shall subsequently fully detail. How does this evidence stand? You have the evidence of six practical, scientific, and careful Engineers, who have devoted great time and study on the consideration of this matter, and reported the practicability and necessity of this project against the superficial testimony of four Civil Engineers. You have the evidence of six witnesses, among whom are Architects, Shipping Masters and Wharfingers, against the evidence of four witnesses of the same character. Now, then, I ask, is there any doubt about the truth of this matter?

I would call the attention of the Senate to another statement; that this project originated with the San Francisco Dock and Wharf Company. We have the evidence of Mr. Phelps, that the people of San Francisco do not want this work; that public sentiment there is against it. Now, sir, in one thousand eight hundred and fifty-six, the Grand Jury of San Francisco entered into a minute examination of this subject, examined witnesses in reference to it, published their report to the country, and made an appeal to the Legislature. I read from the report:

“By the outward pressure of the sand with which the water lots on the front have been filled in, the water upon the front of the city is constantly shallowing, and the harbor being greatly damaged. At some points, where, three years since, the largest ships could float, the ground is nearly bare at low tide. The evil is increasing, and we see no remedy for it but a substantial bulkhead around the city front. This is rapidly becoming a pressing necessity. The great question, or difficulty, is in regard to the adoption of a plan which shall at the same time protect the rights of the city, of individuals, and of commerce; and not less important than these considerations, which will afford some reasonable guarantee, that a plan being adopted, the work will be built. There is too much reason to apprehend that the design of many of the schemes before the Legislature is only speculative, as such projects have usually been in this State heretofore. We recommend to our delegation in the Legislature the most careful scrutiny of any bill which may come before them for their action, and suggest as desirable, that should any bill pass the Legislature, it be subject to the approval of the citizens of San Francisco, and do not extend the present water fronts as established by the act of one thousand eight hundred and fifty-one. Signed: Henry Haight, Foreman, O. B. Crary, Albert Dibblee, George H. Howard, William Leffingwell, G. D. Street, Henry Schneidell, J. J. Felt, George H. Kellogg, Louis Cohn, James Donahue, William Alvord, A. L. Tubbs, Henry M. Hale, William B. Sawyer, J. L. Sheppard, Charles C. Morton, G. Elliott, J. Frank, Thomas Hayes, Ira P. Rankin, Secretary.”

I say that, on the part of the sworn conservators of the public good of the city and county of San Francisco, it is admitted that the work at that time was of pressing importance and urgent necessity.

It is true, sir, they recommended that the bill which may be passed by the Legislature be submitted to the approval of the people. Now, sir, one word upon that subject. Why, sir, this is a great question. It involves abstruse questions of science; it involves grave questions of constitutional law; it involves minute analysis of evidence. Now, sir, I submit which is the most proper, the most appropriate tribunal to determine whether it is necessary to carry out a plan of this importance and character; whether it is the Legislature of California, who have opportunities to investigate the matter thoroughly, or whether it is the brawny and swarthy unterrified democracy of San Francisco, [merriment,] who go up and deposit their ballots on election day, and thereby decide the whole thing, when perhaps two-thirds of them are totally unqualified to pass upon it? Is not this the place where the matter should be determined? It seems to me that it is.

But, sir, there is another interesting feature in this Grand Jury report. The resolution passed by the memorialists, to which I have referred, is signed by George M. Howard, J. J. Felt, G. H. Kellogg, and Henry M. Hale. These gentlemen, acting under the solemn obligations of an oath, sworn to protect the public good of San Francisco, signed that Grand Jury report, which declared that a bulkhead was an immediate necessity, and now they deny the necessity, and tell you the scheme is a swindle. In one thousand eight hundred and fifty-six, under the solemn obligations of an oath, they asserted that this work was a necessity, and appealed to the Legislature to meet by some proper plan the unquestioned requirement for the public good. What respect can you have for men of this character, who are numbered among those signing this memorial? But this is not all.

There have been, sir, several bills, running through three or four years, presented before the Legislature on this subject. The citizens of San Francisco, through the President of the Board of Supervisors, have come to this Legislature, in years past, and urged the passage of a bill granting this franchise to that city, setting forth in glowing colors, in persuasive tones, the necessity existing for the construction of a bulkhead, or seawall, around that city front. I will not tire the Senate by running over the features of the several bills. I have only this to say; that Daniel Gibb, a member of this Chamber of Commerce, a squatter upon the high seas, who owns a private wharf in San Francisco, that does not pay one single cent of revenue—that his name appears repeatedly in reports of bills presented to this Legislature, asking for this identical franchise. He is now one of these memorialists. The Senator from San Francisco (Mr. Parker,) last winter had one of those bills in his possession, and there was also one presented in the Senate of one thousand eight hundred and fifty-eight. I think that Senator Parker's bill was introduced in pursuance of a certificate of incorporation, filed in the office of the Secretary of State, to which I have alluded. Am I right? [Addressing Mr. Parker.]

Mr. Parker.—I do not know as to that. I rise to explain.

Mr. Edgerton.—The Senator wishes to explain why he cannot answer my question.

Mr. Parker.—I especially stated, when I introduced those bills last year, that I should not consider myself responsible for their character. I was

asked to introduce them, and I did so without indorsing them. The record will show that.

Mr. Edgerton.—Exactly. In the simplicity of my mind, with my limited parliamentary experience, I had supposed that the introduction of a bill fixed its paternity—that the mover of it was supposed to be its friend, at least. I suppose that these two bills were illegitimate offspring, and like all other foundlings, as they and the Senator have grown old, he has become ashamed of them: they have become objects of aversion to their repentant and mortified sire. [Great merriment.]

But this is not all, sir. The reference which I have just made is as legitimate as the one which I am about to make. I hold in my hand a petition, signed by a large majority of the nominating convention in San Francisco which brought Senators Peachy and Sharp into this Senate, and the entire Democratic Delegation in the other House. It asks them to provide for the construction of some work of this kind, setting forth its necessity.

Again, sir, I hold in my hand another petition, signed by eighteen—no, by twenty-two or twenty-five Delegates, sent by San Francisco to the last Democratic State Convention. These petitions urge upon the delegation here to provide for the construction of this work, setting forth in a clear form that it is of immediate and urgent necessity.

Mr. Phelps (interrupting).—Will the Senator allow me to explain?

Mr. Edgerton.—Wait one moment, and I will give you something to reply to.

Mr. Phelps.—I desire to explain, or, rather, I want to ask the gentleman a question.

Mr. Edgerton.—Again, I hold in my hand a petition, signed by over three hundred of the most prominent and respectable citizens in the county of San Mateo—addressed to the Senator himself—asking this Legislature to pass this bill. Now, Mr. President, I will give the Senator from San Mateo an opportunity to submit any interrogatory he may choose to propound.

Mr. Phelps.—I want to ask the Senator if the persons spoken of, members of Democratic Conventions, indorse *this* bill? As I understand it, they announced their approbation in general terms of the bulkhead work.

Mr. Edgerton.—I will say this: This particular bill was not before the convention, but in the Nominating Convention in San Francisco the Democratic members in the other House were openly and notoriously bulkhead men, and the majority of that delegation on that floor are to-day in favor of this bill, zealously urging its passage, and intending to vote for it.

Now, then, again, sir, it is a little fact,—but straws show which way the wind blows,—the Anti-Bulkhead Executive Committee adopted a resolution to this effect:

“*Resolved*, That said Executive Committee be instructed to call, at an early day, a mass meeting of the people of this city to indorse the memorial prepared by said committee, and for such further action in the premises as may be deemed necessary.”

Sir, was that mass meeting ever called? It was not, sir. Why? I undertake to say here that they dare not call it, and I believe, with my present information on the subject, that if they had dared so to do; if

they had carried out the proposition contained in that resolution, the "mass meeting" would have been taken possession of by the friends of this measure, and that they would have memorialized the Legislature to pass this bill instead of sending such an impertinent and dictatorial document as these few (twenty-five or twenty-six) memorialists have forwarded.

The Senator from San Mateo was elected, I believe, at his first election by a majority of nearly two thousand. Why, sir, he has been known to be the champion of the opposition to this measure from the beginning to the end. He was the great war-horse of anti-bulkheadism. [Merriment]. If this opposition was so radical in the minds of his constituency, in the hearts of the people of San Francisco, I ask why it was that this large majority dwindled down at the last election to three or four hundred? I believe, to-day, sir, that public sentiment in the city and county of San Francisco is vastly in favor of this measure.

On the tenth of February, one thousand eight hundred and fifty-six, appeared in the columns of the San Francisco *Herald*, one of the ablest, most guarded, and conservative, journals in the State, the following article:

"The dilapidated condition of the lower part of the city is known to every dweller within the corporation limits. Man-traps everywhere abound, and a general caving in cannot by any means be regarded as an impossibility. The worms have hastened the work of destruction. The piles in every part of the city which formerly was under water have been completely honeycombed by these indefatigable insects, and so extensive has been the work of destruction that it is a wonder that a general caving in has not occurred before now. To pile, cap, and plank, the lower part of the city anew, would cost a million and a half of dollars. It is absurd to suppose that the owners of water lots, so long as the city front is open, and there is no impediment to prevent the continual rolling down of the dirt, accelerated by the action of the tides, will to any extent commence the work of filling in, for it is by no means certain that the dirt with which a lot is filled in will remain in the position in which it was originally placed. The owner of a water lot who commences the work of filling in can have no guarantee that he is not improving his neighbor's property and not his own. Till that part of the city which now stands on piles is filled in, we will have to pay large amounts annually for repairing the streets, and a general filling in cannot be commenced till a substantial stone bulkhead is built around the city water front.

If things are allowed to remain in their present position we will have to pay, in the space of five or six years, a larger sum for piling, capping, and planking, than would be required for the construction of a bulkhead, and at the end of that time, and after the expenditure of millions of dollars, be no better off than we are at present. There are, however, other and equally important reasons for the construction of a substantial bulkhead. It is well known to every merchant in the city that the harbor is being gradually filled by the avalanche of dirt which is being constantly rolled down from the more elevated portions of the city, and if some means be not adopted to check it, we may very soon find that the city front is on the other side of Goat Island. * * * * * Who-
ever, then, would do his duty in the municipal and State councils must look upon this proposed improvement as it is, in its whole length and breadth. He must comprehend it in its fullest extent, its vast importance, its permanent character, and its overwhelming necessity. The

improvement will establish itself by its own necessity, by its own obvious and confessed utility, and the benefits which it is destined so widely to confer. We shall wonder, hereafter, who could doubt the propriety of this undertaking, and shall wonder yet more that it was delayed even so long."

But, again, gentlemen ask, why not dredge? Now, sir, the most obvious reply to this proposition is, that the experiment has been tried and proved a failure. In one thousand eight hundred and fifty-four, I believe, as is disclosed in the testimony of H. N. Squire and S. B. Gilmer, that experiment was tried at a cost of some forty thousand dollars. They discovered that as fast as the dredging carried out the material deposited, just so fast was it washed in. In addition to that, Mr. Robinson, expert engineer, determined that no system of dredging would effect the object in view; and that it was first necessary that they should construct this sea-wall or bulkhead. Why? Because, say they, this vast accumulation of mud proceeds from the filling in of the streets, and that as fast as the material deposited was removed by the dredging machine, its place was supplied from those fillings. The facts disclosed by Squire and Gilmer carry out this theory.

Again, they ask, why don't you have a preliminary survey? They cannot arrive at any satisfactory results without a preliminary survey by Government Engineers. Well, sir, my reply to that is, that this preliminary survey is the very theory of this bill. It provides in section third for the appointment of a Board of Engineers, one to be appointed by the Governor, one to be appointed by the San Francisco Dock and Wharf Company, and one to be appointed by the Board of Supervisors of the city and county of San Francisco. It further provides, that the Governor shall have power to appoint two additional Consulting Engineers. Thus, a full and fair Board of Engineers is provided for, and required to make a preliminary survey. Considerable is said about "plans and specifications" necessary to be gone into before the work is commenced. The Dock and Wharf Company have only one voice in five in that Board.

But again, on that point. I say that practical experimental surveys have already been made. They have been made by Sinot, by Keyes, by Bender, by Turner, by J. P. Robinson, and by C. C. Ordeman. And more than all that, plans and specifications, according to which this work ought to be done, are before the Committee, the Senate, and the country.

But, again, sir, I ask what Legislature, in granting a railroad charter, or a railroad franchise, or a canal franchise, required a preliminary survey before making the grant? Yes, I challenge gentlemen to point out an instance where the parties making application for such a franchise or charter, have been required, as a condition precedent to the grant, to proceed and make minute and scientific surveys. And here I would call the attention of the Senate to the evidence of Captain Gilmer, a Government Engineer, for whom I have no doubt the opponents of this bill have a little respect. A question is put to him. He replied as follows: "I have never known such a survey to be required by any Legislature before making the grant."

I think that disposes satisfactorily of the objection raised in the minority report, that preliminary, extensive, minute, and critical surveys, should be made before the action of the Legislature is had upon this bill.

Another objection is set forth in that report. They ask—why compel the San Francisco Dock and Wharf Company to construct this sea-wall of stone? Now, here is one point in the conduct of the opposition upon

which I predicate a charge of factiousness. It was asserted that if we granted this franchise to this company, all they would do would be to turn in a mass of rotten, worm-eaten piles, rotten planks, and material of that kind, throw up the wharfs thereon, and call it a bulkhead. Then it was urged by the opposition, if this work ought to be done, it ought to be constructed of stone, and the majority were charged with intended fraud upon the city of San Francisco, in advocating this bill without guarding it in some such way. Now, mark you—no sooner is the demanded provision placed in the bill than they ask: Why require the work to be done with stone? I think the answer obvious and plain. Because that will form the only kind of a structure which will properly meet this great and overwhelming necessity.

But, it is said, this grant is made without any consideration. Why, sir, the consideration for this grant is a great public necessity. The consideration, again, is the capital advanced by this company, which, they say, is seven million five hundred thousand dollars, to construct this work. Is not the necessity and the amount of money which this company embark in this project a sufficient consideration for this franchise? Is not this a sufficient consideration, a usual consideration, for the grant of a franchise of this character?

But, again; it is said, sir, that, by various statutory enactments, the privilege or franchise in these wharfs and piers of this bulkhead, if there be any, has already been granted by the Legislature to the city of San Francisco. Now, let us see if that is the fact. All the facts that exist upon this subject are the following: The act of one thousand eight hundred and fifty, incorporating the city of San Francisco; the act of March twenty-six, one thousand eight hundred and fifty-one; the act of re-incorporation, of April fifteen, one thousand eight hundred and fifty-one; the act of May, one thousand eight hundred and fifty-one; the act of March twelve, one thousand eight hundred and fifty-three; the act of re-incorporation, of April fifteen, one thousand eight hundred and fifty-five; and the Consolidation Act, of one thousand eight hundred and fifty-six. Now, let us see what the statute of March twenty-six, one thousand eight hundred and fifty-one, provided for.

Under this act, sir, there was an express reservation of power to regulate and control these very privileges sought for by this company. And I now call the particular attention of the Senate to the precise phraseology of the statutes to which Senator Parker called attention, and under which, he says, this franchise in the wharfs became a vested right. I say here, generally, that all these various enactments confer, as it were, a delegated portion of the sovereignty of this State. We have conferred nothing but a power. Now, then, let us see if this be so.

What is that power? Can it be said that the franchise itself was meant? Sir, it is the mere grant of police authority, precisely as under the same act similar powers were granted to the city of San Francisco to regulate her market-places, to regulate hack hire, and analagous subjects of legislation. Now, will it be said that we conferred on the city of San Francisco the right to the property in the market-places, or right of property in the hacks? We might with as much propriety say that we did, as to say that these acts grant the right to the city of San Francisco to this franchise. It is not so, sir; that is a mistaken view of the law.

Mr. Parker (interrupting)—I say that the acts, taken together, amount to a grant of the water front, as established by the act of one thousand eight hundred and fifty-one.

Mr. Edgerton.—Then I say that such grant was not made by these statutes separately or in combination. The act of March one thousand eight hundred and fifty-one, expressly reserved this power to the State; and I say, again, that these various acts confer nothing but the power to provide for the regulation of these wharfs. They do not confer the franchise itself. There have been but two enactments of the Legislature, since the formation of the State, in reference to wharfs owned by private parties in that city. These two acts were confirmatory of rights held by private individuals under contracts with the city. Concerning Market Street, and Broadway Street wharfs, I have only to say in regard to this, that two of these grantees are in favor of, and are interested in, the construction of this work, if this franchise be granted by the Legislature. The other one makes no opposition to the grant of this franchise to this company by the Legislature.

But, again, sir, they object to the bill because it enables the San Francisco Dock and Wharf Company to condemn private property at once, which is actually required for the construction of the work. Now, I ask the attention of the Legislature to the usual conduct, to the usual history of legislation on this subject; and I challenge Senators to point to a single instance where a Legislature has granted a franchise to a railroad company inserting a clause providing that the company should have only one particular section or acre of the land, as the work progressed step by step. Why, sir, it is usual in the construction of railroads, for the company to enter on the whole line, and appropriate and condemn it, and just as fast as the road is constructed, the cars are put upon the track, and the revenue derived from the completed section is applied to carry out the full prosecution of the work. So it is absolutely necessary for this company to appropriate all of this property at once. This is so, because the preliminary survey and examination, the preliminary work, the sinking of piles for instance, required to be done in section third of this bill, would constitute one step in the progress of the work, and this would involve a large expenditure.

Again, it is said, in the extravagant language of that report, that this bill is going to operate so as to wrest their living away from men engaged in warehouse business; that this company will have a right to erect magnificent warehouses upon this bulkhead, and thus will be enabled to take away the "living" from hundreds of thousands of citizens of San Francisco, as the minority say in their extravagant style of discourse. Now, sir, my first reply to that assertion is, that this bill provides that this bulkhead, or sea-wall, shall not be covered by any warehouses, sheds, or structures of any kind, of a public nature. That bill specifically provides that this company shall erect no warehouse, shed, or structure, of any kind, except a toll-house, or wharf office, anywhere upon it. And I further reply by saying that the great bulk of warehousing interest in the city of San Francisco, is owned by this company, and that many individuals engaged in that class of business outside of the company, are warm supporters of this measure.

But, again, sir, they say there is no such thing in existence as the San Francisco Dock and Wharf Company. Now, sir, this position is based upon section six, of the general act of incorporation, passed April twenty-third, one thousand eight hundred and fifty-one. The opponents of the measure say to the Senate, and to the country, that this San Francisco Dock and Wharf Company was formed under that act, and because that company has not entered upon the prosecution of business within one year from the date of their incorporation, their rights have lapsed by *non*

user. This objection is predicated on an erroneous view of the law. This company was formed under the act of April fourteenth, one thousand eight hundred and fifty-three, section twenty-seven of which provides that companies formed under it shall not be subject to the liabilities and conditions imposed by the act of one thousand eight hundred and fifty-one.

That, sir, puts an end to that objection.

In the first place, the testimony shows that this company did enter upon the prosecution of the business for which it was organized—the obtaining of this franchise—that it expended large sums of money in providing for surveys, and developing the practicability of the work. They were organized under another act, which says they shall not be subject to the liabilities and conditions imposed under the general act of incorporation of one thousand eight hundred and fifty-one.

Again, sir, they say that this is a monopoly. Amid the ruin and desolation which science, the law, and the evidence, has everywhere spread around them, this great question of monopoly beams out like a smiling oasis in the desert. "This is a monopoly," say they. We are going to crush down and oppress private individuals. Now, sir, let us see about that. I think that the usually acute and accurate perceptions of the gentlemen, in tracing resemblances, have been betrayed into a false analogy. They take us back to the days of Queen Elizabeth, and of James the First. They compare this bill to a monopoly for the securing of the East India trade. It is like a great tobacco monopoly.

Sir, what is a monopoly? The best accredited definition of a monopoly which I have seen is, that it is that grant of power, of privilege in trade, conferring an exclusive right to commerce of the one kind or another, under which grant a company may oppress an individual. That is the principle. Now, sir, this is no more a monopoly than is a railroad charter. It is precisely analogous to the Sacramento Bridge charter. It is not a monopoly, sir, because, in the first place the whole world have a right to use it; it is not a monopoly, in the next place, because it is under the surveillance, regulation, and control, of the Board of Supervisors of the city of San Francisco; it is not a monopoly, because it is guarded by every possible, reasonable check; by the very strongest acts of legislation. It is cut off from every opportunity which might arise to oppress the people, in the sense of monopoly.

They, then, say it is a monopoly, again, because it cuts off connection in the work. Why, sir, the theory of the bill is, that the company shall publish for sealed proposals, inviting every contractor in the country to come forward and bid for the jobs; and further, it provides that the work must be done by the lowest responsible bidder. It is true, the bill does allow the San Francisco Dock and Wharf Company to come into competition with other contractors; but this, in no sense, makes it a monopoly, because the work must be done by the lowest bidder, and this provision is sufficient to secure a fair rivalry in the business.

I say, again, this is no monopoly, because the rate of charges which the company can assess upon commerce is strictly fixed by law—is fixed by the bill. In no instance can they become greater than the charges made during this year and the past; and I ask who ever heard complaints in regard to these charges until this franchise was sought by this company at your hands?

But, again, says the Senator from San Francisco, (Mr. Peachy,) why withhold the franchise from the city of San Francisco? He complains that this bill is introduced for the purpose of giving to private individuals that which belongs to the city of San Francisco. And here I can-

not omit to notice and to chastise an offensive reflection cast upon the Legislature by the Senator from San Francisco, (Mr. Peachy,) by what he is pleased to denominate its unjust and tyrannical conduct toward that city. In the spirit of a narrow, egg-bound prejudice, he seems to think that city an isolated spot, entirely separate from and independent of the rest of the political community; that her delegation is here out of compliment to the balance of the State; that she has nothing to contribute, and everything to receive. Why keep continually legislating for the city of San Francisco, he asks? Sir, I know of no locality which so much needs the interposition of the strong arm of the government—certainly none so clamorous for benefits at our hands. Annually she comes knocking at the doors of the Capitol, asking for largesses from your treasury in aid of her Sailors' Homes, her Orphan Asylums, her Deaf and Dumb Asylum, and her Home for the Inebriate—laudable objects all, which have ever met and will always receive my most liberal and cordial support. But when that Senator impugns my motives, and ascribes my support of this measure to animosity to that city, to a hostile and meddling disposition improperly to interfere in its municipal affairs, I indignantly repel the charge. Sir, as an American and a Californian, I look to that city with wonder and admiration—the prey of merciless speculators, laboring under an incubus of debt—convulsed by revolution—pillaged and plundered by factions—she has nevertheless struggled through every epoch of her sad and tragic history, and to-day she classes among the first cities of the Union. Her march is steadily onward, and within the period assigned by the Psalmist as the limit of manly life, we may, many of us, behold her girt with her theater of hills, her broad and beautiful bay, the proud commercial empress of the earth. But, sir, to confer a franchise like this upon her, I cannot but consider as a most rash, unwise, and impolitic act of legislation. In her municipal and corporate capacity, she has but one legitimate end to achieve, and that is government. In delegating to her, for this purpose, a portion of the sovereign power of the State, it never could have been contemplated that she was to go upon 'Change in competition with her own citizens, a jobber in franchises and a speculator in contracts.

Calhoun has said—and there was none greater than Calhoun—that which could be done by individuals ought to be accomplished by them; and what was competent to be done by States, ought to be done by States. [Here the Senator was interrupted by a message from the Assembly.] I was about to remark upon the general policy of government in reference to grants of this kind. I say it is undemocratic for governments to be meddling with the construction of works of this character.

In the first place, the General Government will not undertake it. In the year one thousand eight hundred and fifty-seven, a joint resolution was passed, calling upon the General Government to make preliminary surveys with a view to the construction of a work of this kind. Like everything else, as it would seem, which goes from this State to the General Government, the request was totally neglected. No attention was paid to it. It is true, the General Government, sometimes, for her own protection, has engaged in the construction of works of this character. For instance, we have the Delaware Breakwater, the expenditure upon the overslough at Albany, the deepening of the mouths of the Mississippi; but I have yet to learn of one single instance where the General Government interfered by appropriations, or in any way whatever, for the protection of a mere city front. [Merriment]. I never heard of her

engaging in the construction of wharfs, docks, piers, or a bulkhead, for any city in the Union.

Sir, as a general proposition, works of this character are much more economically constructed, and always much more profitably managed, in the hands of private individuals than in the hands of government. Take the action of the State of Michigan in regard to the Michigan Central Railroad. The government involved herself in an enormous debt, and was continually involving herself in immense liabilities, until it passed a law turning the property over to private individuals; and ever since then the road has been excellently managed, and has paid an ample revenue. I believe that the same thing was undertaken by the State of Illinois. It brought her to bankruptcy, repudiation, and financial disgrace. The same thing was attempted in the State of Pennsylvania, and the result was, the saddling upon that State of a debt of forty millions of dollars. And, sir, we are not without the light of example upon this particular subject. The wharfs of London, the great East India Docks, the West India Docks, were all built by private corporations, under charter from Parliament. The great Birkenhead Docks of Liverpool were all built by private individuals under similar charters. The wharfs of Boston, the most elegant and commodious in the Union, are all owned by private individuals. In the city of New York the ownership of the wharfs was of a mixed character—being partly owned by private individuals and partly by the city. All those owned by the city made a drain upon the treasury equal to six times the amount of revenue derived. Those owned by private individuals have always paid a fine income, besides paying a revenue to the city. Finally, the city rented out, I believe, nearly all the wharfs owned by her in her corporate capacity, and ever since they have paid a good profit to the individuals holding them, in addition to a large sum to support the City Government. The *Journal of Commerce*, one of the most able and conservative papers in the United States, thus remarks in reference to this subject:

“The wharf property now in the hands of the corporation would be quite as available for commerce, and more economically managed if held as private property. The patronage of the corporation may be diminished to the public advantage, and it is better that individuals, under proper restrictions, should do those things which do not necessarily require the aid of public servants. The public would lose no advantage by the sale of the public wharfs, for at present they are a drain on the revenues of the city. A just and equal tax on the property sold, after five years, will leave a balance worth vastly more than any rental accruing at present from the wharfs.”

I have thus, sir, in a very brief manner—I confess, in a very unsatisfactory manner to myself—endeavored to present and refute some of the objections—almost all of the objections, I believe—which have been urged against the passage of this bill.

Now, sir, I call the attention of the Senate, for a few moments, to some of the beneficial results which will arise from this work.

In the first place, it will afford support to a vast number of laborers.

It will pour into circulation a large amount of capital.

It will forever maintain the integrity of the city front of San Francisco.

It will forever protect the city against this accumulation in its harbor, which has thus far fatally operated against its commercial facilities.

I might, sir, speak, perhaps with propriety, of a political consideration here. I grant, sir, that any such work as this ought not to be constructed purely for political purposes; but where all other considerations are granted; when considerations of public policy and of commercial interests prevail; then, sir, as an incident, political benefits are to be regarded. And I here call the attention of the Senate to the character of the signers of this memorial from San Francisco in opposition to the passage of this bill. The first memorialists here in regard to this matter, and the first projectors of the idea of this memorial, were all Black Republicans. I do say if this work is constructed, if we pass this bill, the work will be put in progress, and there will then forever be put an end to that power in the city of San Francisco, and in my judgment throughout the State.

Mr. President and Senators: God, in his bountiful Providence, has given us the elements of national grandeur and renown unsurpassed in any country on the globe.

You have exhaustless mineral wealth, a vast expanse of agricultural soil, fruits and flowers blushing by every stream, hills tolerant of culture to their summits, valleys enameled with perennial verdure, rivers broad and deep, whose foam is amber, and whose sands are gold.

With one hand the genius of your young and noble State holds the keys to the hidden treasures of the earth, while, with the other, she holds the Golden Gate to the everlasting sea. It is the solemn duty of this Legislature, by every legitimate act of legislation, to protect, to encourage, and to develop, the vast resources at our command.

By a most munificent donation you have inaugurated already a liberal policy of internal improvements. Let this, the greatest of them all, form one link in the chain. Let it rise in its adamantine grandeur! Countless generations will applaud the genius that conceived it, and the wise, liberal, and beneficent policy, of those who carried it into execution.

[At this point Mr. Peachy addressed the Senate, in reply to Mr. Edger-ton.]

I disclaim, sir, any desire to pick a quarrel with the Senator from San Francisco (Mr. Peachy). He has raised with me a question of veracity. If he disclaim any intention to impute improper motives to Senators on this floor, so far as I am concerned, with that disclaimer, I feel called upon to retract everything I have said of a personal nature reflecting upon him.

But, sir, what is the fact? He stated, in so many words, that this bill was a "deliberate swindle." Now, sir, a majority of this Senate indorsed what he calls a deliberate swindle, and we are obliged to take the complimentary alternative—either, in his estimation, we are a set of knaves, or a set of fools. Can you escape it, sir? Certainly not.

Now, sir, I do not propose to review the objections which have just been made to this bill. They are the same as set forth in the minority report; and, probably, if the gentleman from San Francisco (Mr. Peachy) and myself were to discuss this subject until the last syllable of recorded time, in every single point of view, we should fail to persuade or convince one vote on either side.

There was one subject which I omitted to notice in my former remarks, and beg the indulgence of the Senate to speak briefly to that point at the present time. It is for the purpose of showing the real character of the most active part of the opposition to this bill. Under what were known as the *Colton* grants in San Francisco, grants made by a Justice of

the Peace, under Horace Hawes, who was at that time Prefect, a large amount of water lot property, situated outside of the water front line, as established by the act of one thousand eight hundred and fifty-one, was sought to be created by these Colton grants.

The people having purchased this property, came to the Legislature to secure the passage of a law annihilating the city front as formed under the act of one thousand eight hundred and fifty-one, and virtually securing an extension of the present front by legislation. I am informed that this bill, which I have in my hand, and which, I understand, is a bill which was introduced into this Senate in one thousand eight hundred and fifty-seven, was introduced by parties interested in that speculation. It contemplates the granting of a franchise far greater than that granted by the bill now under consideration—creating an extension of two or three miles beyond that fixed in the bill now before the Senate. First, then, the opposition to this bill comes from these speculators, who have been trying for the last five, six, or seven years, by some legislative scheme, to destroy the city front as it is now established, and to greatly extend it, in order to enable them to build up a new interest.

Again, the opposition to this bill comes from J. W. Simonton, the editor of the *Evening Bulletin*. And who is J. W. Simonton? An abandoned profligate—an expelled outcast from the halls of the National Congress—a fallen, degraded, disgraced, and branded villain, he finally turns up upon our shores, a fugitive from justice, and here, covered with the infamy of his crimes, rank with the odors of a prison, from the peculiar fitness of his character and talents for the business, he is made director of a venal, shameless, and polluted press. He lives upon the wages of calumny and detraction; truth is unnatural to him, and falsehood comes at his beck. He lies by day and lies by night; he lies in the wantonness of a lust for lying. [Sensation and applause outside of the bar, and in the gallery.] He befouls and desecrates every good name and thing he touches. Like the caterpillar upon the leaf, he first defiles and then devours. [Sensation and great applause outside of the bar, which was checked by President Quinn, who here assumed the seat of the presiding officer.]

It comes from that third-rate sophomorical, anti-bulkhead orator; that indefatigable, incessant pamphleteer, and newspaper scribbler, George Gordon. Through a member of this body, he has addressed the country in a communication, which, for its insulting attack, its arrogant and florid impudence, its puerile and tinsel logic, its gross ignorance and misrepresentation of the subject of which he treats, is without a parallel in the history of the controversy. And who is this George Gordon? Why, sir, morally, he is an animated mass of putrefaction. His name is a proverb of infamy and contempt throughout the State. He first seeks to corrupt, and then libels our courts. An alien, he is the open, avowed enemy of our government, and a villifier of our institutions. A rejected, cast-off applicant for admission to the clubs of San Francisco, he skulks through the community, a despised, shunned, suspected, and guilty thing. [Sensation.] To-day, his fate trembles between ignominious flight from the country and incarceration in a prison. Why, sir, I hold in my hand a letter, accompanying the document which he addressed to myself through the columns of the *San Francisco Herald*. He refers me to certain gentlemen named therein, to find out who and what he is. I have given him the benefit of his reference. [Laughter and applause.] One of the gentlemen to whom he has referred, told me substantially, that he was the most consummate villain that ever went unhung. [Great laughter and applause.]

Mr. Dickinson announced that if any further demonstrations were made in the lobbies, he would move to have them cleared.

Mr. Edgerton (continuing).—*Mr. President*: I am through, sir. This style of remark is disgusting to me, but I feel called upon to speak thus, not upon personal grounds, I assure you, but upon grounds of general public necessity. I am well aware that he who is assailed by a blackguard had better let the blackguard alone. I alluded to these facts, and to these gentlemen, purely and simply for the purpose of showing the real character, the real sources of the most active local opposition to the passage of this measure.

Mr. Ryan secured the floor, and was proceeding to speak in opposition to the passage of the bill. He gave way at the request of *Mr. Edgerton*, who said :

Mr. Edgerton.—I have alluded, sir, to the conduct of certain correspondents who have been tolerated upon this floor. I wish to say, sir, in justice to the gentleman who has hitherto been the correspondent of the *San Francisco Bulletin*, (*Mr. Edward Harte*,) that I made no allusion to him whatever. I wish further to say—in order to show the conduct of one portion of the press—that the fact is, that a portion of his letters, which were calculated to do justice to members on this floor, supporting this measure, have been suppressed, while the most violent abuse has been interpolated in lieu thereof. I must state this on the authority of the gentleman (*Mr. Harte*,) himself, whose high character and talent will be ample guarantee for the truth of what I say.

S P E E C H

OF

H O N . R . C . C L A R K ,

DELIVERED IN THE SENATE OF CALIFORNIA, TUESDAY, APRIL 3, 1860.

MR. PRESIDENT:—After the lengthy discussion which has been had upon this question, I did not intend to make any remarks upon its final passage. I have, heretofore, in Committee of the Whole, submitted nearly everything that I desired to say upon this subject. But I noticed this morning a paragraph in one of our city papers, which makes it necessary for me to say something further upon the passage of this bill. Now, sir, I do not wish to, and shall not rise to a question of privilege, but I will say, that but for a paragraph, which I will read in a moment, which occurred in the *Standard* of this morning, in an editorial, I should not have said anything on the passage of this bill. I find, sir, in the *Standard* of this morning the following paragraph:

“The truth is, Mr. Clark openly and avowedly traded off his vote with the bulkheaders for their support to Sacramento on the capital question. As long as the action of government, even incidentally, fosters local interests, so long will local interests combine for local advantage, even at the expense of the public good. For our part, we think that Major Clark was far from consulting the public interest when he consented to swap the bulkhead for the capital bill; but in doing so, he was undoubtedly obeying the wishes, if not the actual instructions, of his constituents. The people of Sacramento reckon that the value imparted to their property by the location of the capital, will more than compensate them for any burdens to which the bulkhead may subject them. This is the way of the world; mankind, generally, prefer their individual interest to the good of the public, and the people of Sacramento form no exception to the general rule.”

Now, Mr. President, if the remarks that I made, from time to time, in

Committee of the Whole, when this bill was under consideration for the purpose of amendment, had been reported, I am satisfied that the editor of the *Standard* would not have published any such statement as the one I have just read. He is a gentleman, sir, for whom I have a high regard, with whom my associations are of the most pleasant and agreeable nature, and I am a little astonished that he should have made such a statement in attempting to excuse me, as he seems to have thought it necessary for him to do for my course in reference to the bulkhead. I can only say, "God save me from my friends," if that is the way they are going to treat me. In regard to trading my vote, I have only to say that it is not true, that I have either directly or indirectly traded my vote upon the bulkhead, for the purpose of securing a vote on the capital question. I will go further, and state that many propositions—very many—have been made to me to exchange my vote upon the bulkhead for a vote upon the capital question, and that such propositions I have uniformly declined. I will state, sir, that a Senator, now upon the floor of the Senate, made some such proposition to me and I declined. I will state, sir, that many friends, gentlemen who are opposed to the bulkhead, my personal friends, citizens of Sacramento, came to me repeatedly, some even to my house at night, sir, to try to get me to commit myself upon the subject of the bulkhead, and assuring me that if I would agree to go against it, I could have the whole San Francisco Delegation with me upon the capital question, and that the Board of Supervisors of San Francisco would withdraw their proposition which they had made for the removal of the capital to San Francisco. Whether commissioned by Senators or not, I do not know or care; but I absolutely and unqualifiedly refused to commit myself upon the subject of this bulkhead, either to the friends or the opponents of it in any way or shape, until after the capital question was disposed of, and finally passed in this body. Then, for the first time, I took home with me every paper which had been published in relation to it, and which had been placed upon my desk by the opponents of it, (for I am free to say that I never found any paper published by the friends of it). I took the papers home with me, and shut myself up in my room, and for hours studied the testimony and the whole case, and came to my conclusions in relation to it, and by the conclusions thus formed, have I been governed in my course ever since. Now, sir, I will again state to the Senate, and I hope my friends the Reporters will endeavor to report what I may now say, that hereafter there may be no misunderstanding about the matter, the reasons, and the only reasons—no, not the only reasons, (because I cannot undertake to give all the reasons which have influenced me without consuming too much time,) but the leading reasons which have influenced me in my course upon this bill.

In looking, Mr. President, at this bill, it occurs to me that there are but two considerations which should influence us in our action.

The one is, the effect of this measure so far as it shall operate upon the harbor of San Francisco; the other is, so far as it shall affect the property of the citizens of San Francisco.

Now, sir, to those two questions I propose to address myself upon this occasion, and to confine my remarks to them.

That the harbor of San Francisco has been filling up from year to year, ever since the water lots of San Francisco were in the process of being filled up, no one will deny. That the harbor of San Francisco filled up at all prior to that date we have not one particle of evidence. We have not even an assertion from any of the opponents of this bill that, prior to the time when the water lots within the line of the city front, as estab-

lished by the act of one thousand eight hundred and fifty-one, were commenced being filled up, I say we have not one particle of evidence, or even an assertion, that, prior to that time, the harbor of San Francisco was being filled up from any cause, or from any source. If that is true, sir, then it produces a powerful argument on behalf of the theory of those who are in favor of this bill—that the filling up of the harbor of San Francisco is, in the main, if not exclusively, attributable to the fact of the filling in of those lots. And, to my mind, sir, it is as demonstrable as that the sun is the source of light.

No man has been to San Francisco and across the bay but knows that the waters of that bay are clear and pellucid, containing no matter in solution at all calculated—I mean any distance outside of the wharfs—to fill up that harbor by deposits, and all the evidence and testimony introduced by the opponents of this bill before the committee will bear me out in the assertion. The testimony of Captain Alden shows that outside the Heads, and on the bar, there has been no perceptible increase of deposit since he has been acquainted with this coast.

Mr. Peachy.—What does that prove?

Mr. Clark.—It proves, sir, that there is nothing in the waters flowing in from the sea with the tides, or which is gathered in that harbor in the course of its flood tides, calculated to fill up the harbor, or to make deposits around the wharfs, and that, if that water does contain anything, it must obtain it after the flood and upon its ebb tide, when it flows back again from the shore. There is where it comes from, and it is from that source, and that source alone—as must be evident to anybody who has paid any attention to the testimony in this case, or reasoned on it at all—from which the matter has been deposited which has filled up the harbor of San Francisco. It is proven in another way, sir. Millions of tons, probably, of stone, and of sand, and of dirt, have been thrown from the hills of San Francisco into this water lot property, within the line of one thousand eight hundred and fifty-one. Why is it that it has so rapidly sunk out of sight? Why is it that the sand and the stone thus thrown in have sunk out of sight if it has not been that it has displaced the mud which was there and pushed it out into the bay? It may be true, and it doubtless is true, that the building of the wharfs, perpendicularly to the shore, out into the bay, has contributed to hold this deposit; to retain it close around the wharfs themselves, and in the slips; but where did it come from, if not from the filling up of those lots on the plateau, or mud-flat upon which San Francisco is built? Where can it also have come from? It could not have come from any other source, and it has been pressed out and forced out by this material, which has been thrown in for the purpose of filling up those lots. This argument alone, it seems to me, is conclusive upon this subject.

Again, sir, we have the testimony of a witness who undertook to dredge some of those slips; and what is his testimony? It is that they filled up again in a short time after they were dredged; they filled up from within by the pressure of other mud into the place from which that which was dredged out was taken. There was nothing—no substance—in the water itself to cause this filling. The gentlemen on the other side have not shown us the existence of anything in the water itself prior to this filling in of these water lots, and since such filling in they do not tell us where else it could have been obtained. Suppose there was any substance in solution in this water, it was their duty to have shown that fact, and whence it came. They have not undertaken to do any such thing.

Again, it is shown by a fact cited by the Senator from Napa (Mr. Edgerton) in his argument of yesterday, that where divers have gone down into the water in diving-bells, at flood-tide, it is found to be perfectly clear, but at ebb-tide it is muddy. What other conclusion can you draw from that fact, sir, but that this mud is obtained from the shore? Where could it come from else? The water comes in clear and goes out muddy. It is true that those wharfs being erected there check the current and have caused a greater deposit than perhaps would have been occasioned had the wharfs not been built. That may all be true, sir.

But, say the gentlemen, why don't you dredge it out? Why build a bulkhead? Why, sir, for the simple reason that if you did dredge it out it would be filled up immediately from the same source. Sir, you cannot dredge successfully unless you place some barrier between the mud to be dredged and the source from which that mud came. So long as the source of supply is unexhausted, so long, if you dredge a thousand tuns out, will another thousand tuns slide out and take its place. And that is the theory of this bill—that you must put an obstruction in the way.

[A message from the Assembly was here announced.]

That is the theory of this bill, sir—that you must put some bulkhead, some obstruction, between the source of this sediment and that which you propose to dredge out, otherwise your dredging will not be effectual. As proven by the testimony in this case of H. N. Squire, who dredged out some slips, they filled up again, and it must ever be so. I do not, sir, propose to say anything further upon the subject of the source whence this material comes which has filled up the harbor of San Francisco. That the harbor is filling up is not denied. That something is necessary to be done is also admitted by the opponents of this bill. That the source whence this material, which has so obstructed the harbor of San Francisco, has come is from within and not from without, I think, I have demonstrated—at least to my own satisfaction.

Then comes the remedy; and what is that remedy? Why, the gentlemen and their associates say dredging; and they appeal to high sounding names—to the names of gentlemen whose testimony, I admit, sir, within the sphere of their profession and upon facts within their knowledge, legitimate deductions from such facts would be very potent. But these very witnesses, in attempting to give opinions on this subject as to the cause of the filling up of the harbor of San Francisco, and as to the best method of remedying it, tell you at the same time that they are not sufficiently acquainted with the facts of the case to enable them to form a satisfactory opinion even to themselves! Take Captain Alden, for instance, an eminent man, perhaps, in his profession. Doubtless he is so: A highly honorable man, whose word upon any subject within his personal knowledge and upon any subject to which he has directed his attention would carry very great weight; but he assures us himself that he knows nothing about this from personal observation. It has not been his business. His business, he says, is between the mud and the surface of the water. [Merriment.] It does not go below the mud; it does not attempt to ascertain where it comes from. He has made no soundings since one thousand eight hundred and fifty-three, no investigation of the cause of this filling up, but being about San Francisco, and perhaps associating with some of that class of gentlemen who are opposed to this bill, he has derived his ideas from them, not from anything which he has seen or observed himself. He says so in his own statement. So of Mr. Bache, and so of all the other witnesses they have introduced.

Now, Mr. President, if it is true, as contended for, by the opponents of this bill, that the filling of the harbor of San Francisco does not proceed from within, but does proceed from without, it was in the power of Senators, and of the constituency whom they represent, whose feelings they say are almost unanimously against this bill, it was in their power to have shown it by scientific surveys. The Senator from San Francisco, (Mr. Peachy), yesterday said that we were doing things in great haste, or pretending to do them in great haste. Why, sir, this bill, or one similar to it, has for four years been before the Legislature of California. The citizens of San Francisco, if they deemed it of such vital importance to their interests that a bulkhead bill should not pass, certainly would not have permitted such scientific gentlemen as Major Bache and Captain Alden, for instance, to have remained five years in their midst, without procuring them, either for love or money, to make the necessary scientific investigation of these facts. But they have done nothing of the kind. They have taken no steps to *prove the negative*, which it was in their power to have proven in this case. This is not one of that class of *negatives impossible to prove*, where a party can throw himself back on his rights, and say, "you must prove the affirmative." It is one of that class of cases where the facts, if they exist on either side, can be affirmatively proven. It was their duty to have come prepared with such proof before this Senate. They have made no such proof. The fact that they have not come prepared with any such testimony, is a negative pregnant, which term all lawyers understand. In other words, it is the strongest argument in favor of the assertion of those who favor this bill, that this filling up comes from within, and not from without. The fact that those whose interest it was to prove the contrary, had the means in their power of proving it, but have not tried to avail themselves of those means, is the strongest argument in favor of the theory of the supporters of this bill.

But these same gentlemen, these scientific gentlemen—Mr. Bache, Mr. Alden, Mr. Davidson, and Mr. Somebody else—what is the other name?

Voice.—Mr. Gilmer.

Mr. Clark.—Mr. Gilmer. These gentlemen give it as their opinion that dredging would accomplish the purpose. Now, sir, Senators mistake when they come before a Senate, composed of such gentlemen as occupy seats upon this floor, and rely solely upon the reputation of their witnesses, when, by their witnesses themselves, it is shown that those witnesses know nothing of the facts about which they testified. They make a great mistake, sir, when they come relying upon high sounding names, as effective to justify the testimony which the gentlemen, owning those high sounding names, choose to give. Those gentlemen have said dredging was the usual method. Dredging, sir, is the remedy to keep slips clean and clear of mud, when you have first provided against their again filling up from within, and, until then, dredging is a nuisance and nothing else. Why, sir, in all the harbors in the Atlantic, something of the same nature with the bulkhead proposed by this bill has been erected in every one of them; not, perhaps, continued all around a city front, but wherever there have been wharfs and slips there has been a retaining wall, so that dredging may accomplish the purpose for which dredging alone is competent—the keeping of them clear; and, until you do have a retaining wall, until you do have some barrier to keep the mud from floating out again, as I have before stated, it is useless to attempt to dredge, and they do not anywhere do it. They do not anywhere do it until they have

first provided against the effects which must necessarily follow if you undertake to dredge without having built a retaining wall.

Now, sir, for the provisions of the bill. Having satisfied myself at least, if I do not satisfy anybody else, that this retaining wall is necessary, I will now come to the provisions of the bill.

Mr. President, during the discussion on this subject, a great deal has been said about monopoly. It has been the chief word upon which the play has been made. A great deal has been said about ruining the rights of San Francisco; about destroying her harbor if this bill passes; about the money, the immense amount of money, these men are to make if this bill passes; about the State giving away revenues for eighteen years, voting eighteen millions of revenue to these men, and requiring no bonds of them; making them the disbursers of that revenue, and still requiring no bonds of them. But when I came to examine the bill myself, I saw that it was a well guarded bill; one upon which more care has been bestowed, and one which has been better matured than any which has ever, within my knowledge, passed a Legislative body in California.

Why, sir, this bill has been taken up section by section, and whenever a proper amendment, one which had merit in it, has been suggested by the opponents or by the friends of the bill, it has been adopted. There is but one thing defective in it, so far as I can see; and that, sir, except for reasons which I will hereafter give, I would now attempt to have amended in this body.

Now let us see, sir, if this bill is not guarded. The Senator from San Francisco, (Mr. Peachy,) says that such a structure as this, costing from five to seven millions of dollars, is not necessary. Well, sir, I do not know what it will cost; I do not know what such a retaining wall as is needed there will cost; nor do I know that these gentlemen who are seeking this franchise, boast that they have got five or seven millions of money to spend on it. I am free to say that there is nothing of that sort in the bill; and I am further free to say that none of them have ever told me any such thing. I have no such information except what I received from the Senator from San Francisco, (Mr. Peachy.) They may have made such boasts; they may have made such statements, and I am very glad if it is true, to know that we are conferring this franchise and these privileges upon men who are able to comply with the requirements of this bill and are perfectly responsible. But, says the Senator, (Mr. Peachy,) we are giving to them eighteen millions of capital in eighteen years. How the Senator arrives at it, how he makes it out, I do not know.

Why, what does this bill provide? It provides that the rates of wharfage and dockage to be collected shall never exceed the amount of the legal charges now made. That is one provision.

Another provision is that the Board of Supervisors of the city and county of San Francisco—of that city and county whose very heart is excited, whose very citizens, ninety-nine out of one hundred of them—are opposed to this bill, if the representations of the Senators who represent them here, be taken as true; the Board of Supervisors, representing a people, and elected by a people in opposition to this "monopoly," have power, from time to time, whenever they choose, every three months, every three days, if they choose, to change the rates, and to reduce them until this company shall receive only ten per cent. per annum upon the amount of their expenditures. *But it might be feared*, that with this five to seven millions of money they would be capable of buying the Board, though God forbid that such a supposition should ever be indulged in, as to the representatives of so virtuous a people as those of San Francisco!

[Merriment.] But if they should ever be able to buy up the Board of Supervisors of the city of San Francisco, and thereby have the rates raised so that eighteen millions of money *should be realized*, then the Legislature of California shall have the right, at any time, to change the rates and say what shall be charged.

A better guarded bill, again, I repeat, Mr. President, than this has never passed a legislative body in California. One more certain in its provisions to prevent extortion and abuse—because we place in the hands of those most interested the power to limit the amount they should charge, and should they prove faithless to the trust, then we have a larger body to be corrupted and bought up by the seven millions before they can ruin the commerce of San Francisco by extravagant rates.

But, says the Senator (Mr. Peachy,) again: There is no check upon the amount they may expend—or rather, says he, upon the amount which they may pretend to expend.

Now, sir, when this bill was in consideration in Committee of the Whole the same suggestion was made by the Senator from San Mateo, Mr. Phelps, and for the first time it struck me that the bill was defective perhaps in that particular, I offered an amendment which was adopted by the committee, and the Senate subsequently, and which is contained in the engrossed bill, providing that all their property, when it becomes necessary to ascertain the cost for the purpose of regulating the rates of tolls, reducing them to ten per cent, if you choose, shall be assessed by Assessors provided for in the manner directed by law in relation to railroad companies. Not only the property which they should take possession of by private contract—not only the property which they shall have to assess before they can take possession of it, for the reason that they cannot make an arrangement privately with the parties, but the property which they now own, or which they or any stockholder of the company may hereafter own, before its condemnation, shall be appraised for the purpose of assessing the cost, upon which they shall be allowed ten per cent. Now, if language could make it any plainer than that I confess, sir, I am not an adept at the use of the English tongue.

But, the Senator, (Mr. Peachy,) wants to prevent them from making private contracts—and why? Because, he says, it may sell to B., one of this company, at an enormous nominal price, and that then B. may by private contract agree to sell it back to the company again at the same enormous price which he pretends to have given for it, and in that way swell up the cost. But the provisions of this bill are ample against it, because, it says that all the property which shall become vested in them, as also that which they now own, shall be assessed by Assessors—not what they pretend to have given for it, but at its real value. For one I am unwilling to prevent them from contracting, if they could do it, for the property of private parties. I am unwilling to do it. But to prevent any fraud growing out of the transactions as suggested by the Senator from San Mateo, (Mr. Phelps,) I am willing, and the friends of the bill were willing to accept an amendment which would entirely cut that off. Then, sir, supposing that, according to the present revenue derived from commerce at San Francisco, the amount should be a million a year, and in eighteen years amount to eighteen millions; yet, if the cost of this bulkhead should not be five millions, as the Senator (Mr. Phelps,) says it will not be, then sir, this bill provides that they shall not receive the million of dollars revenue a year from commerce, but they shall be limited, and the Board of Supervisors can limit them to ten per cent. upon their actual expenditures.

Another charge, sir, made against this measure was, that it was intended—that this company intended—and that this bill gave them the facilities to become the exclusive warehousemen of the city and county of San Francisco. And where did they get that, sir? In the manifesto which was printed and put upon our tables, it was said they got it from the word “sheds;” they had a right to erect sheds. Well, it was thought a snake in the grass; a nigger in the fence. [Merriment.] The Senate have stricken out the words, and provided that no structure of any kind can ever be put upon this bulkhead of one hundred and ten feet wide; that the company may erect wharf-offices and toll-houses upon their wharfs and piers, but that this one hundred and ten feet shall forever be *kept free* and clear, as a public thoroughfare, around the city of San Francisco. Such are the provisions of this bill. There is no clause contained in this bill upon the strength of which they could build warehouses, or sheds, or become the great monopolists of the storage and warehousing of the city of San Francisco. Not a line, not a clause, sir.

Various other amendments have been adopted, sir, all of which I will not undertake to enumerate, which render this bill perfectly harmless for evil, and leave it only powerful to do good—in my opinion.

Now, sir, there is one amendment, as I stated, that I would like to have seen adopted; one which I did prepare yesterday, at my desk, and intended to have offered, except for reasons which I now state. The Senator from San Francisco, (Mr. Peachy,) yesterday, offered a number of amendments; some of them two or three pages long, in which some good things were contained, but in which so much that was extremely objectionable was also contained, that we had to vote against the whole; because we could not divide his amendments up into parts. He had offered them as one amendment, and we could not divide it. We could not, following in the tactics of the Senator from Mariposa, (Mr. Merritt,) call for a division of the amendment. We could call for a division of the question, when several amendments were offered, but not divide an amendment.

Mr. Peachy (interrupting.)—In one respect you could.

Mr. Clark—Now, Mr. President, I have prepared, and would like to have seen adopted before this bill passed, the following amendment. Amend Section Seven by adding thereto the following:

“*Provided*, that no franchise, privilege, structure, or property of any kind, except between Folsom and Vallejo streets, shall be subject to the provisions of this section before it shall become necessary for the San Francisco Dock and Wharf Company to take and have the same for the purposes of the actual construction of said bulkhead or sea-wall, or wharfs or piers, in the progress of the building thereof.”

I have taken that amendment word for word, with the exception of “between Folsom and Vallejo streets”—which I have added—from the amendment of two or three pages offered by the Senator (Mr. Peachy) yesterday. He contended—and it is the only thing, really, which gives any color to this oft-repeated charge of monopoly—he contended that, under the provisions of this bill—and I will admit that possibly it may be true—the San Francisco Dock and Wharf Company could at once take possession of the whole line of city front, when the second section of this bulkhead was not required to be commenced for a period of six years, and the third section for a period of twelve years. Now, it is certain, if the

Senator had offered such an amendment as this—that they should not take possession of the second and third sections of the city front, as provided for in this bill, until it was necessary for the actual construction of the work—I would have voted for it. But, when that amendment came in clogged with amendments—that this company should be compelled to submit all their bids to the Board of Supervisors of the city and county of San Francisco; and that *they* should be the judges whether any bid should be accepted or not; and that, if they did not accept any bid, then the company should not erect any work; when it came up connected with a provision of that sort, and I had to vote for that if I did for this—I had to vote against the whole and take my chances.

Mr. Ryan—I would ask the Senator if he is anxious to have that amendment incorporated—to recommit it with instructions to have that amendment put in.

Mr. Clark—I will attend to that before I get through. I will state what I am going to do before I finish. I say, sir, when I have either to vote against this or to vote for it, with such objectionable matter tacked on it as offered by the Senator (Mr. Peachy) yesterday, nothing is left for me to do but to vote against it, and I did it. This bill provides that these parties should build this first section in six years, and expend one hundred thousand dollars in its construction the first year. Suppose his amendment was adopted, that the company should not do any work themselves, and that all bids should be submitted to the Board of Supervisors of San Francisco, and they have the power to reject them all. What would have been the consequence? That would have put it in the power of this inimical Board—as he says they are its most bitter enemies, all of them, to have rejected all bids—and it is a perfectly legitimate deduction that they never would have accepted any bids, and the San Francisco Dock and Wharf Company were forbidden to do any work themselves. That is the reason the amendment was voted down—because it was calculated to kill the bill. If there is any good thing in it; if it is a bill good in itself, or any part of it; or if it can be made so, his amendment was calculated to murder the whole of it. Not only that, but it was accompanied by another amendment: That the State of California should be a party to all this condemnation, and that fat offices should be made for *Attorneys*, to be appointed by the Governor, and paid for by this company. Such amendments, sir, may be, and doubtless were, offered in good faith—because the Senator (Mr. Peachy) says so, and I do not doubt his word—do not doubt that he has worked himself up to believe that those amendments all ought to have been adopted and incorporated in this bill. But nobody who desires to see a bill pass at all could ever have voted for them.

Now, sir, I did not offer this amendment yesterday, after a consultation with some of the friends of the bill, for the simple reason—and now for my response to the Senator from Humboldt (Mr. Ryan)—for the simple reason that the bill would have to go to a committee again, with special instructions, and that would delay action, and keep it in this House, and I want to get it out of the Senate; and I do not offer the amendment now for that sole reason; but, when the bill passes this body—if it should pass—and goes into the other House, then I and other friends of the bill are pledged to attempt to have the amendment adopted there; and when it comes back here we will concur in it. That is the course we intend to pursue—not to keep it here longer if we can help it. If the amendment is adopted in the House—and I shall use all the means I can to have it done, and other friends of the bill have pledged me the same thing—then

when it comes back we will concur in that amendment. I hope the Senator is answered. That is the course I, at least, will pursue in this matter. I will not offer the amendment now, because, then the bill would have to go back to a committee, which delays it and keeps it in this House; and I want to get rid of it.

Now, Mr. President, one or two words as to the source of the opposition to this bulkhead bill—not as to the character but the source of this opposition, as I believe it to exist—and I have said all that I intend to say upon this subject.

In one thousand eight hundred and fifty-one, the water-front of the city of San Francisco was defined by the Legislature, and marked out by a bill passed for that purpose. It is that line upon which this bulkhead, sea-wall, or retaining wall, is to be built.

At that time, Mr. President, this water-line front, as adopted by the Legislature, was some seven blocks further out than the original water-line, which was Montgomery Street. It commenced at Montgomery Street, then ran some seven blocks further into the water than that street. In one thousand eight hundred and fifty-one, and after the passage of the act of the Legislature fixing the water-front of the city of San Francisco, under and by virtue of a judgment, known as the Peter Smith judgment, against the city of San Francisco, they undertook to sell, and did sell, lots considerably further out into the water—what distance I do not know, six hundred feet, certainly, and perhaps more—further out into the water than the water-line front then established by the Legislature. Citizens of San Francisco, those who were speculating upon the future, purchased at those sales, and the deeds are on record in the Recorder's office of the city and county of San Francisco. If I am in error as to these facts, I ask that Senators better acquainted with them should set me right now, because I do not want to make misstatements. I state these things on information, not of my own knowledge. These facts being true, it is perfectly easy to account for the opposition of certain persons in the city of San Francisco to this bulkhead measure.

There are two classes there who are opposed to it; those who have good and improved property within the water line, and those who have purchased under that pretended claim, (Peter Smith title,) and claim some rights to lots outside of that water line. They are both opposed to it, and opposed to it for different reasons.

Those inside are opposed to it because, forsooth, if this bulkhead is ever built, if this magnificent street, one hundred and ten feet wide, is ever made around the city of San Francisco, the property will be improved up to it, and those whose property is now improved, and who are some one hundred, or perhaps one thousand feet from that water line, will find themselves farther away from the center of business, and their property depreciated; and it is very natural, therefore, that they should want to keep the harbor of San Francisco in the condition that it now is, to cut off all improvements, and all chance to build up within that line, or rather between them and the water front.

Those who are outside of that line are looking forward to the future necessity of a further extension of the water front, so as to take in those lots to which they have got some title. They are perfectly willing that this sea-wall, or bulkhead, should remain unbuilt, and that parties may go on and attempt to fill in their lots inside of the water line. And why? Because every tun of sand thrown inside inures to their benefit, by pushing out a tun of mud on their lots, and filling them up for them. The man who undertakes to fill up his lot within the water line, until a retain-

ing wall is built, does it for the benefit of those who pretend to claim the property outside of that line; and when you get the harbor so filled up that you cannot come up to the water line, then it is indispensably necessary for a further extension, and they become the owners of the property.

Now which should the Legislature favor? One other fact to enable us to determine that.

In one thousand eight hundred and fifty-three, the Legislature passed an act, and appointed Commissioners, to sell the State's interest, which by *decision of the Supreme Court* was in fee simple, to the property within this water line, as established by the act of one thousand eight hundred and fifty-one. The State went on and sold it, and has received her consideration for it. And, sir, that is the second consideration which should influence this Senate in its action upon this bill.

The State has sold the property. It cannot be improved, and cannot be made valuable to the purchasers, or for taxation, without this sea-wall. Then it becomes our duty to build it. We owe it to those who purchased this property from the State, that facilities should be afforded them for its improvement. This company offer to afford those facilities at ten per cent. on the expenditure, so as to enable improvements to be made, rendering the property valuable to themselves and to the State, for the purpose of taxation.

Now, when you come to consider the interest that those two classes of persons have in opposing this measure, there is no difficulty in accounting for what Senators say is the almost unanimous opposition in San Francisco to this bill. But, it is an opposition which does not influence my action—ought not to weigh with me. The State owes it to those persons. She first owes it to commerce, that the harbor should be protected, and again she owes it to the purchasers of her title to all those lots that she should enable them to improve them, if in so doing she does not injure the requirements of commerce.

I have attempted, sir, to show that the measure does not and cannot prejudice the requirements of commerce, but that it is necessary for that purpose, and that it is right in every point of view in which it can be considered, and believing it to be right, while I hope that this amendment which I have prepared, will be adopted in the other House if the bill should pass this, I shall vote for the bill just as it is, that we may get rid of it and proceed to some other business.

S P E E C H

OF

HON. E. D. WHEELER,

DELIVERED IN THE SENATE OF CALIFORNIA, APRIL 4, 1860.

MR. PRESIDENT:—I have been a silent listener to the debates transpiring for several days past, and have studiously refrained from any participation in the discussions growing out of the consideration of this matter. I had concluded to let this thing silently pass, recording my vote in its favor, and to refrain, *in toto*, from trespassing on the valuable time of the Senate by any remarks of my own. The discussion, however, has taken so wide and so peculiar a range, so much has been said upon the bill, such startling and unheard-of denunciations have been pronounced upon the heads of its supporters, that I feel called upon, before it goes to the country, and before I bid a final adieu to political life and for the last time shake hands with honest men—as it is said the supporters of this bill must do when they cast their votes—to state some of the reasons that govern and control my action.

In the reckless declamation that has been indulged on this floor, these zealous orators, through the wealth of fertile imaginations, have “peopled the void air” with spectral forms of sublimated villainy, and raised around our senses an impenetrable cloud of crime, wholly obscuring the sunlight of truth, reason, and reflection. Honest men have stood aghast at the wholesale charges of corruption; the timorous have tremblingly fled to the covert of neutrality; the over-credulous have believed; the wary and cautious have compressed their voices into whispers, and hushed their whispers into silence.

We have been denounced through a portion of the San Francisco press as traitors to our country! As *traitors*, Mr. President! Mr. President, your name and mine, and the names of a majority of the honorable Senators composing this body, have been inclosed in black lines and published in the papers of San Francisco as traitors to our country! Publish us as traitors, in the San Francisco *Bulletin* and *Alta*! the avowed and boasted

organs of premeditated and organized treason, the champions of piracy, the apologists and defenders of murderers and robbers! Treason! *Senators* charged with treason, by the *Bulletin* and *Alta*! papers that upheld and encouraged every grade of crime known to the calendar of felonies, through the most painful and distressing period of excitement this country has ever endured; papers that in San Francisco sanctioned the erection of forts and the planting of cannon in her public streets, cheering on the mob who, at the beat of the morning drum, for many weeks together, flew to arms for the purpose of opposing the laws of the State; of preventing the enjoyment of constitutional rights, and of taking by violence and without the forms of law, the lives of citizens!

This, Mr. President, is the medium through which we are denounced and branded as traitors, and our names sent forth encircled with black lines as objects of execration and scorn.

That is all I have to say on that subject. Now, sir, with the indulgence of the Senate, I shall beg the privilege of looking at a few matters connected with my part in this controversy, and I will endeavor to be brief as possible. I will only refer to a few general matters. In the first place, I wish to speak a few words upon the features of the bill; in the second place, a few words upon this public sentiment, the nature of which we have not yet heard (for in every speech, in every argument, in every newspaper article, in every manner in which it has been brought forward by the opposers of this bill, they have appealed to the public sentiment of San Francisco)—I propose to notice that briefly.

Now, as to the bill itself: I wish to speak to that, for I wish it to be understood. I don't wish the people of this State to receive it as dosed out to them by its enemies, as an enormous thieving swindle; I wish them to take the bill and read it as it is now. What is it? What is it about which all this talk has been made? To-day, in the argument upon this floor, we were conducted even to the verge of the tomb, and were told that on our dying beds we would regret this vote. We were told by one Senator, in the deep, tragic tones that characterized his speech, that we could not sleep in our beds in the presence of the Almighty! We were told by the Senator from San Mateo, that all of his asperities upon this subject had become softened; that he had become heart-broken; that he was like Rachel weeping for her children; like Niobe—all tears; that his eloquence had failed, his energies were exhausted; that his political management had been baffled; his constituency had deserted him, and he was left to the mournful solace of an honest, though broken, heart. Tears! Mr. President, *that* moved my heart, though I may be considered as a cold man, belonging to the cold hearted and iron brotherhood, known as wicked lawyers. He had my sympathies, and I almost wept with him, but I was afraid it might be unkindly construed into a desertion of the cause, and, therefore, discreetly, as I thought, I kept back my tears.

But let us see what this bill proposes to do. We are feelingly told it will inaugurate a system of oppression in San Francisco that will ruin the commerce of the State; that the beautiful "gem of the seas," seated gracefully on her hundred hills, receiving tribute from the nations of the earth, will fall into a gloomy and desolate ruin, and speedily follow in the crumbling wake of the once splendid and magnificent Palmyra. This is very pathetic, but equally untrue. The argument that this company will ruin the city, is based on two propositions, both of which are false. In the first place the opponents of the bill assume that the gentlemen who compose the Dock and Wharf Company are corrupt to the very core. They deal with them as with thieves and perjured villains; as men who

are bereft of every sentiment of honor, in whose nature and composition, not a grain of moral responsibility has space to exist. Secondly, they deal with these matters as though all future Legislatures were to be bands of pirates, legalized bands of robbers. Is there not a clause in this bill that gives to any future Legislature the right to recall, to cancel and annul this grant, any time it pleases? Is not that in the bill? Is it not reserved to any future Legislature, in case this franchise becomes oppressive, in case the grantees are guilty of a wrong, to take back all that is given by this bill, and to entirely annul all the privileges hereby conferred? Again, it has been argued by the Senator from San Francisco, (Mr. Parker,) that Governor Latham's Inaugural Address opposed this bill; (and I will here say, parenthetically, that I give just as much credit to Governor Latham's opinion, as I do to that of any other intelligent gentleman, and no more.) This bill, then, provides that three competent Engineers are to be appointed to fix upon the character of this work, to agree upon plans and specifications. Who is to appoint them? Are they to be appointed by this band of thieves, by these "traitors," as they have been denounced here, who are not supposed to be honest men? Not at all. One Engineer is to be appointed by them, one by the Board of Supervisors, who are supposed to be *immaculate*, and the third by the Governor of the State, who has no interest in the matter. But suppose these three disagree, or suppose the Governor feels that more talents, that more of the lights of science should be called into action upon this great and important matter? The bill provides that two more Engineers shall be appointed. But who is to have the appointment of them? The Dock and Wharf Company? No, sir; the Governor has that power, so that when the Board is full, three of them will have been appointed by the Governor, one by the Board of Supervisors, and only one, a one-fifth power of that Board, is given to the company. Then, I say, there can be no imposition there, unless, as has been assumed here to-day, this corrupting Dock and Wharf Company will also corrupt the Board of Engineers, the Governor, and the Board of Supervisors. Well, if these arguments are to be respected, then we might as well say, at once, that everything is corrupt, and that human nature is a failure. It is well known that confidence must be reposed somewhere. We must rely upon men; we must believe in their integrity; we must pay that compliment to human nature to believe that we are not all thieves and scoundrels. I, Mr. President, am more charitable than to believe that all of my fellow-men are corrupt. I am willing to believe that Senators upon this floor who have advanced those arguments, are honest; but zeal that enters into a man's heart, frequently carries him beyond the truth, and his judgment is entirely perverted, and falls a sacrifice to temporary ambition.

But, again, as to the bill: Are there no other guards? The bill provides that the Board of Supervisors of San Francisco shall have the right, *at all times*, to fix the rate of tolls; and in case the Board of Supervisors shall be bribed, or become corrupt, then the Legislature next shall have the right to fix the rate of tolls; and yet Senators have said that there were no guards around this bill. Again; another feature contained in this bill, is a provision that this whole work shall revert to the State at a period when these parties are paid for their outlay.

And, again; if the Dock and Wharf Company turned this "monstrous monopoly" into the crushing and ruinous incubus which has been pictured out upon the floor of this Senate, the city of San Francisco can at any time purchase it and pay for it in yearly installments. The hard terms which generally prevail among private parties in their dealings are

not required here. The city can come forward at any time—and with all her boasted munificence it is to be presumed she would be financially capable of so doing at any time—and purchase this franchise, and have five years to pay for it in, in installments of twenty per cent., with interest at the rate of only ten per cent. per annum. If, at any time, the people of San Francisco really imagine this dark cloud of ruin is actually settling down upon her commerce, she can extricate herself from the impending danger by one well-meant, honest, and faithful effort.

There has been much said here concerning interference with property. A greater fallacy could not have been urged in the discussion of this bill. Section seven of the bill, provides for the payment for all property taken, including water lots; and all franchises and prospective profits, enter into the valuation and estimation of the property thus appropriated. All private property taken will be condemned under the railroad laws of the State, or laws precisely similar.

But, we are told, this will be a great hardship—a crying wrong. I answer, if it be a wrong, we then impeach the Constitution of the United States; we impeach the Constitution of this State; we impeach the integrity and justness of that wholesome rule, which provides that private property may be taken for public use on just compensation being made therefor.

The existence of government itself, the erection of great public works, the construction of public buildings, imperatively require that such powers should exist.

Then, I say, that parties, to-day, owning private wharfs along the line to be occupied by this work, will suffer no wrong. They have only to make competent proof of the value of their property, including the entire value of their franchises, and the next day they may jingle in their pockets, in good American coin, an ample equivalent for the rights thus surrendered. How could we build our railroads and canals, in the absence of such a law as this? And, I know it is not unfrequently deemed, by the private proprietor, a rare chance for speculation and investment, when public works, of this character and magnitude, demand the use of private property; for it is a notorious fact that the Commissioners or Jurors, to whom the matter is referred, almost invariably award a sum in payment, far exceeding the real market value of the property taken. This would, undoubtedly, be the case in the present instance.

It has been stated here, that these parties would put in old decayed wharfs of their own, estimating them at millions in value; that old, rickety structures would be contributed as part of the capital stock of the company, and at such price as they might choose to name. This is untrue. In view of the possible contingency of the city's purchasing this work from the company, at any future time, this bill provides that any wharfs owned by the company, shall be estimated by disinterested Commissioners, and their value fixed, as in the case of the appropriation of property of any other persons.

Another argument has been used in this matter, to the effect that the city authorities would never *know* how much money, in the shape of wharfage and tolls, the company had collected and received. I have only to remark that that argument is based on the assumed theory of the absolute, innate, corruption of human nature. The bill provides that the officers of the company shall make their reports, at stated periods, of the condition of the works, and of all accounts, embracing the receipts and expenditures. These reports, in order to satisfy the public, are verified by the oaths of the officers thus making them. This verification is the

surest guarantee and highest sanction of the truths of such documents, provided by human law. When a man steps forward, and lifts his hand to heaven, and swears that what he is about to utter is strictly true, invoking the wrath of the Eternal if it be otherwise, it is a presumption that obtains among men that his statement is not false. But, it is answered with a curl of the lip, that the Dock and Wharf Company are all villains, and will all be guilty of perjury. It is assumed that there is no truth, no honor, no decency, existing, except among the immaculate band who are opposing the passage of this bill.

But this is not all, Mr. President. It is alleged here, by a gentleman upon the other side of the chamber, for whose logical powers, learning, and eloquence, I have a profound respect, that these parties will let this work to whom they please; that they have reserved the power to dictate terms, and reject bids. I have to say in reply, that the bill provides that the contract shall be let to the lowest responsible bidder. Who ever heard of a public work being let out to bidders, unless the right was reserved to call for evidence of their responsibility. Such a provision is customary, and is certainly peculiarly proper in a work of this magnitude. The argument that they may reject a bidder who is responsible, in fact, is a fallacy, for the law then steps in, and gives to such bidder the right and power to show his responsibility, by evidence *aliunde*. And it lies not in the capricious whims of these parties, it lies not in their mouths, to reject a bid which is shown to be the lowest responsible offer. This is the law, and I challenge its contradiction.

But this is not all. Although this great work may involve the expenditure of millions—although it may consume in its great vortex large private fortunes—though many men may invest all they have in the project, there is a section in this bill which provides that in the event of a failure to comply with any of its provisions—what? Not a simple penalty, not damages to be assessed of a moderate character, nor a trifling fine imposed. No, sir; but it is provided, that this entire franchise shall be forfeited, that from any delinquency, or failure to strictly fulfill the letter and spirit of the grant, financial and corporate death must follow. This is the provision of the bill, and I would ask if a more stringent one was ever incorporated in any measure of this kind? In case the company shall be derelict in the performance of any duty—in case they shall voluntarily, willfully, or inadvertently, fail to live up to the provisions of this bill, then this princely estate, this magnificent monopoly passes away under forfeiture, from the hands of the company. And yet we are told there are no guards about this bill—that great gates are left open, through which rivers of perpetual fraud and grievous wrong, will flow on—on in perpetuity!

No guards about this bill! Well, Mr. President, is there anything else besides submitting for the regulation of the tolls to the Board of Supervisors of San Francisco, and also to the Legislature, for the regulation of the charges to be made, and humbly waiting the pleasure of the Legislature for the annulment or continuation of this grant? In addition to the forfeiture to be made under the conditions before enumerated, is there no other guard that has been thrown around this bill? Let us read again; and here let me invoke the attention of the honorable men who have denounced this bill to the section which I am about to read. Section fourteen says: "That a bond in the sum of five hundred thousand dollars, with sufficient sureties, to be approved by the Governor, shall be given for the prosecution of the work." Thus, on the instant that this work is commenced, not only do the parties composing the company become per-

sonally responsible for its prosecution, but they are held, not in a trifling bond of a few thousand dollars, but upon an obligation reaching in amount the princely fortune of half a million. But this is not all. Not only is the approval necessarily given to the Governor of the State, but the extraordinary and unusual power is vested in him whenever he feels so disposed—whenever in his caprice or judgment he shall deem it proper for the interest of the State, he may call upon the company for a renewal of this bond, and these men whose entire fortunes may be pledged to the faithful carrying out of this contract, must necessarily respond to this executive requirement, or forfeit all they have invested, and fail in their grand enterprise. And yet we are told there are no guards thrown around this bill; that the State is not protected; that there is great danger of fraud, and of such a degree of wrong and iniquity in connection with this work, that we may exclaim, its like the world has never seen. Let us look further. It is said that this Dock and Wharf Company having control of the city front, would exercise arbitrarily their powers in controlling the landing of boats, vessels, steamers, etc., to the great prejudice of commerce, and the serious inconvenience of the business community. This position is incorrect. The Board of Supervisors under the provisions of this bill, have the power and authority to direct and control, as to the places and wharfs, where the various classes of trade shall be carried on. This will entirely prevent any intermeddling or unwarranted interference with the trade of the city, even should the company be so insane as to attempt it. So much for some of the features contained in this bill.

I must hurry on to the consideration of the direct effect which this measure is calculated to exert; and in the first place I design showing that this bill, if passed, and its provisions carried out, will be one of the greatest blessings that could happen to the commerce of San Francisco. I will refer to the argument of the Senator from Humboldt, who must be regarded in this debate, as the oracle in statistics, the great man in figures and *lumbering* argument. What has he said? He has essayed an unanswerable argument, but in his eagerness to ruin the bill, has unwittingly exhibited its finest features. He says that upon actual survey and observation, it is determined that this bulkhead can be built for two millions of dollars. In the same breath he tells us, that the revenues now derived from wharfage in the city of San Francisco, are one million of dollars per annum; and this statement is seconded and indorsed by the great champion of the opposition, the Senator from San Mateo. Now let me ask what percentage is one million of profit upon two millions of capital. I apprehend the veriest tyro in figures will admit it would be about fifty per cent. This bill proposes to cut the revenue down to ten per cent. Then if the Board of Supervisors of San Francisco are honest men, when this company has built the bulkhead, which will cost but two millions, instead of allowing them to collect one million per annum, in the shape of wharfage, they will cut down the revenue to two hundred thousand dollars, being ten per cent. per annum on the cash capital actually invested. Now this is clearly proven, by the figures and statements of the enemies of this bill. By their own argument, if this bill passes, and the Board of Supervisors do their duty, and act in good faith, the amount of wharfage and tolls collected in San Francisco will be reduced *eight hundred thousand dollars per annum*. So much for the workings of the bill.

Now as to the public sentiment in San Francisco on this subject. We are told that ninety-nine persons in every hundred, in that locality, are opposed to this measure. And this assertion has been rung in our ears again and again, until I have become disgusted and wearied with its mu-

sic. And I now assume here, upon the facts before this body, that the majority of the people of San Francisco are in favor of this bill. How am I going to prove it? There has been no test vote in San Francisco on the subject. The people of that city have never expressed directly—

Mr. Peachy (interrupting).—One word, if the gentleman from Yuba please, because this is a matter in which I take a little pride. There *was* a vote when I was elected on this very particular point.

Mr. Wheeler.—Well, I will make a statement in this connection. I believe there are *twelve* thousand voters in San Francisco. I think the honorable Senator, Mr. Peachy, received only about *three* thousand votes; he can correct me if I am wrong.

Mr. Peachy.—I do not remember the vote precisely. I think the vote was not less than four thousand.

Mr. Wheeler.—I presume the fine talents of the Senator, his qualities as a lawyer and a statesman, his social accomplishments as a gentleman, induced many a man to vote for him who was in truth a pretty strong bulkheader. I am much inclined to think the temptation to vote for such a man, on general principles, would have been irresistible in my case had I been an elector of that city, notwithstanding I might have suspected him to be unsound upon the great sea-wall issue. But my decided impression is, that at the time of the gentleman's election the bulkhead question did not receive a test vote.

I now turn to the petitions and remonstrances. There are not less than twelve thousand voting inhabitants in the city of San Francisco, and I assume there are not less than fifteen thousand men all told—there may be twenty thousand—but I assume there are at least from fifteen to eighteen thousand. Now, Mr. President, we presented a petition in favor of this measure, containing about ten thousand names, the remonstrance presented here, reached only an aggregate of fifty-five hundred names. Now assuming that our signatures are just as authentic as theirs, (I do not intend to yield this position on account of the *ex parte* statements of the Senator from San Mateo, made in his celebrated privileged question, wherein were paraded the statements of several Sacramento experts—so called—who certified that they had carefully examined our petition, and detected a similarity in the handwriting of many of the signatures,) I say assuming the authenticity of the two documents to be equal, and we have a vote of two to one in our favor. No man that has ever circulated a petition, upon which he has obtained a great number of names, will deny that, in a large number of cases, the signer says to the circulator, "put my name down." Perhaps he is a blacksmith, toiling at his forge; he may be a joiner, with the plane in his hand; he may be a miner, covered with dirt, and his hands soiled with the work at which he is engaged; a machinist, busy in his shop; a farmer, following his plow; a lawyer, accosted in the street with his arms full of books; a physician, dealing out medicines; a preacher, concocting a sermon—I say that in all such cases the circulator is asked to write the name of the signer. Hence, before the tribunal of common sense, in any civilized country on the globe, such a trifling and foolish charge as this, brought forward to prove fraud and forgery, would be received with derision and contempt.

Then I assume that our petition is as genuine as their remonstrance, and we have beaten them two to one. We have ten thousand names, and they have but five thousand. This position is correct, and the documents in possession of the Senate prove it.

But we are told that the best men, the *purest* individuals, have signed the remonstrance. This may all be true. They may all be *pure*, in the sense in which that term is received and construed in that locality. I don't dispute that; but I insist that the popular voice is with us—the popular will is in favor of this enterprise.

But, let us admit, for the sake of this argument, that our petition is a forgery from the beginning to the end; let us see then what is the condition of affairs. Now, there are fifteen or eighteen thousand men in the city of San Francisco; then, if it be true, as we are told on this floor, that ninety-nine persons out of every one hundred are opposed to this measure, if that proportion of the people consider this bill an infamous swindle, a gigantic fraud, a fatal stab at the best interests and prosperity of the city, in God's name, why could they not obtain more than five thousand signatures to their remonstrance? Why have we only five thousand persons remonstrating against the passage of this bill? This is a great measure, and no one has proclaimed its magnitude more dramatically than the opponents of the bill upon this floor; and yet with this immense majority claimed by the opposition only one-third of their assumed strength could be induced to protest against the action of this body. I say that that circumstance of itself is sufficient to negative the bold assumption that a majority of the people of the city of San Francisco are against this bill. I am satisfied that my honorable friend, Mr. Peachy, has not considered this matter in that light. The opponents of this measure have relied too confidently upon the sweeping charges of fraud and forgery made against our petition.

There is another matter to which I wish to refer in connection with this measure, although it is not strictly within the legitimate bounds of this debate. I will, however, trespass upon the Senate with the reference, at the risk of being somewhat out of order.

Last winter a bill similar to the one now under consideration passed this body, but was the next day reconsidered. On the final vote being taken, the San Francisco papers, that is, those papers who amuse themselves by drawing black lines around white men's names; those papers that pretend to all the higher and finer grades of virtue with all the affectation of a prude, and who malign and villify honest men with all the effrontery of a prostitute—those papers took up the list of names of Senators who voted *pro* and *con*—the list of ayes and noes, and published the same in a conspicuous portion of their columns. Of course, those who voted *for* the bill received the usual quantum of vulgar abuse daily visited by those papers upon the heads of all gentlemen who chance to disagree with their editors on any subject of general interest. Right under this list, in large, open type, appeared the names of the Senators who voted *against* the bill. To this latter list the papers call attention, and say, these men are the saviors of the city; we look to them as our protectors, our guardians. They have rescued our beautiful city from the grasp of pirates and robbers; they will live embalmed in the hearts of the great, the true, the unswerving, the devoted, people of San Francisco. Nay, more, Mr. President, they said they would live fresh and honored, for two or three generations, in the hearts of that people; that their children and their children's children, like the pious pilgrims to Mecca, would periodically visit the tombs of these noble Senators, and weep over their honored ashes.

I very well remember reading that list and those remarks, and had some misgivings as to the course I had pursued; yet, believing I was right, concluded to await the result.

In that list was the name of Mr. Burch, among many others. It so happened that in September following, and only a few months after this flaming eulogy had been published concerning him, he was before the country as a candidate for Congress. He, of course, expected the unanimous vote of the great, the true, the grateful people, in whose hearts he had previously been embalmed. But, alas, for human calculation. Mr. Scott, a gentleman against whom, perhaps, there was nothing to be said, but who, certainly, had never especially identified himself with the interests of San Francisco; who had taken no action one way or the other on the bulkhead, and was before the people merely on his party strength, actually beat Mr. Burch by several hundred votes, in that city. I have mentioned this circumstance simply to show that this intense sentiment does not exist in reality; that it is to a great extent, manufactured by interested parties. If I am wrong in this, then that people is composed of the greatest set of ingrates that ever disgraced humanity, for they certainly withheld from Mr. B. support that was honestly his.

It has been asserted in the course of this debate, that Mr. Latham's vote in San Francisco was in a great measure due to his known hostility to the bulkhead bill. I would like to know if there is any politician here who can tell me that Mr. Latham ever took it upon himself to express upon the stump his ideas upon the bulkhead. Did he ever write any argument on that subject, or make any speeches upon it? He may have done so, but if he did, I never heard of it. I had other matters to attend to during the canvass and could not watch political movements with extreme closeness, but I must say that I never heard before that the bulkhead occupied a place in the political programme of one thousand eight hundred and fifty-nine.

Mr. President: I have but a few more remarks to make, and then I will close; and I wish to beg pardon of the Senate for having trespassed upon their attention for so long a time.

San Francisco, through her representatives here, is constantly talking about the blow that commerce will receive if this bill passes, when it is evident to any man that where a large capital is invested a low rate of interest is expected; and where we are now paying a million of dollars per annum for tribute, under this bill we will pay but two hundred thousand dollars.

It has frequently been sneeringly insinuated, that certain *foreigners* were to be interested in this work. I suppose this refers to the French capitalists of San Francisco. I regret that such sentiments should find utterance here; for I have always deemed it our true policy to invite foreign capital to our shores, and when here, to protect it. It is to the generous enterprise of French capital that the State owes the existence of the only railroad within her borders; and I am informed that many of the finest improvements of San Francisco, are alike indebted to the same source for their beauty and solidity. For one, then, I am thankful that France has sent to our shores gentlemen of wealth, and liberality, and who are not afraid to invest, lest it may not pay three per cent. per month, compounding. Let us hear no more of this.

I now ask, what does San Francisco propose to do? Does she propose to erect a bulkhead and establish a system of wharfs free? Not at all; no such proposition has ever been hinted to this Legislature. No newspaper, even, has had the hardihood to proclaim that as a portion of the programme. This, however, may be stated as the real programme. She desires to get things into her own hands, that she may become the great monopolist herself; that she, whose corporate existence was granted her

simply for purposes of a strictly municipal character, may become a *wharf-inger*, a private speculator. If she presented herself before this body, proposing to *relieve commerce* by making the wharfs free, there would be a genuine air of plausibility and sense in the arguments of the opposition. But the proposition is to *relieve commerce* by requiring it to continue the payment of one million dollars per annum, instead of two hundred thousand, as this bill proposes, and to direct its payment into the municipal pocket, for the benefit of the political buzzards holding the reins of political power.

Again. We are told, Mr. President, that San Francisco is alone interested in this measure. By virtue of what? By virtue, I suppose, of the accidental location of its people, at an early day, on the shore of that great harbor—the noblest on the Pacific. That by reason of that location, they have the unquestioned right to “regulate commerce” and impose such tolls, wharfage, etc., as they may deem proper, regardless of the interests of the State at large. This argument has been repeated again and again, by her Senators, on this floor; and the Senators from the other counties of the State informed that any action on their part was a piece of impudent intermeddling with local affairs!

That is the song chanted *here*; while at *San Francisco*, a few days since, thousands of circulars were printed and distributed by an interested, self-constituted committee, throughout the length and breadth of the State, calling on the honest miner, the toiling mechanic, and hardworking farmer, to come to the rescue; that *their* interests were at stake; that *their* rights were being invaded! Indeed, this human heart has a thousand strings upon which a thousand different tunes may be played.

Mr. President, I agree in part with those circulars. It is a matter that interests the entire State; every consumer, every dealer, is directly interested, whether he resides in Sacramento, Marysville, or Shasta. The laborer in the remotest mining camp is interested—for the sugar, the coffee, and tea he uses, the very garments he wears, are floated in through the Golden Gate, and liable to taxation at the San Francisco wharfs. I say, then, we have the undoubted right, acting in our representative capacity, representing the sovereignty of this State, to make such regulation concerning that harbor as we may deem proper, always keeping within constitutional bounds, and always protecting and guarding private rights. We have the right to establish private companies, and clothe them with authority to act efficiently; to lay upon them such restrictions as we please; to fix and regulate their rates of toll; and, finally, as in this bill provided, to reserve to the State the right, when deemed necessary or proper, to revoke and annul the grant herein made.

The tone of argument adopted on this floor would lead one to suppose that San Francisco was a great country of itself, possessing vast resources of her own—a sort of self-sustaining institution. This is not so. She lives and breathes, and has her being, through the wealth, resources, and solid industry, of the interior. Every man knows this. Throw round her such a wall as encircled ancient Babylon, and leave her to subsist on her own productions, and starvation, ruin, beggary, and death, would be the immediate consequence.

Some remarks have been made during this debate, and frequently repeated, intimating that much prejudice exists in the minds of “country members” against San Francisco. For one, Mr. President, I desire to say that no such feeling finds a resting-place in my heart. The only feeling of aversion to that city I ever felt was that engendered during the reign of terror. As an American citizen, and a lover of personal liberty and

constitutional rights, that feeling was natural—I could not suppress it. With that exception, I entertain to-day, for San Francisco and her people, as profound and cordial a respect as for my own city; and, in common with every citizen of the State, feel a just pride in her glory and advancement. That a splendid destiny awaits her, none will deny. The opening commerce of Japan and the great East, the vast discoveries of mineral wealth being made east of the mountains, the development of Western Utah and the Salt Lake Valley, the construction of railroads and telegraphs connecting with the waters of the Missouri, will all powerfully contribute to her magnificence and grandeur; and the man who, fifty years from to-day, claims his home within her superb borders, will as justly boast a proud citizenship as did the citizens of ancient Rome.

Mr. President, it is late; the day is far spent, and I will detain a wearied Senate no longer. I desired to say that I believe this bill is right and well guarded; that its passage will contribute to the best interests of the State, and particularly to the commercial prosperity and well-being of San Francisco, and, although I have been bitterly denounced, politically and personally, for my action in its behalf, yet I will cheerfully, and without any fear for the result, be willing to take a copy in my hand and appear before the people of the State, side by side with its opponents, trusting to their intelligence and sense of justice for a proper verdict.

S P E E C H

OF

H O N . J . A . W A T S O N ,

DELIVERED IN THE SENATE OF CALIFORNIA, APRIL 4, 1860.

Mr. Watson, before voting, rose to an explanation, and said :

Mr. PRESIDENT:—I came to Sacramento regarding this bill as the climax of monopoly, the acme of speculation. I regarded it as the quintessence of wrong, the epitome of the fabled Pandora's box. I regarded it as the last straw that would break the back-bone of the commerce of San Francisco. I have read the bill carefully, examined the limitations, and heard the discussions. I do not now regard it as the moral monstrosity that its enemies have painted it. I have ever aspired to positive rather than negative character. I have said the horse was sixteen feet high, I stick to it, and vote No!

SENATE ENGROSSED BILL, NO. 167.

AN ACT

IN RELATION TO A SEA-WALL, OR BULKHEAD, IN THE CITY AND COUNTY OF
SAN FRANCISCO.

*The People of the State of California represented in Senate and Assembly, do
enact as follows :*

SECTION 1. The right to build a sea-wall, or bulkhead, with the necessary wharfs, piers, and docks, appurtenant to the same, together with the right of charging dockage, wharfage, and tolls, thereat, in the city and county of San Francisco, within the limits and to the extent hereinafter prescribed, is hereby granted to the San Francisco Dock and Wharf Company, incorporated December, A. D., one thousand eight hundred and fifty-eight, subject to the limitations, conditions, and restrictions, hereinafter by this act prescribed.

SEC. 2. The line upon which said sea-wall, or bulkhead, shall be built, shall be the water-line established by the Legislature, March twenty-sixth, one thousand eight hundred and fifty-one, in an act entitled "An Act to provide for the disposition of certain Property of the State of California;" and in no case shall there be any extension outside of said line, except where the width of said bulkhead is greater than the width of the street or space between the water-line and the line of the adjoining lots; then the same may be extended so as to secure the one hundred and ten feet in width, hereinafter referred to. And the extent of this act is hereby limited to the junction of Channel and Third streets, on the south side of said city, and to the junction of Dupont and Beach streets, on the north side of said city, as said streets are laid down upon the official map of said city; *provided*, that said bulkhead, or sea-wall, throughout its entire length and breadth, shall be, and remain forever, a public street or thoroughfare.

SEC. 3. The work shall be done according to plans and specifications to be furnished by a Board of Engineers, or a majority of them; one Engineer to be appointed by the Governor of the State of California, one by

the Supervisors of the city and county of San Francisco, and one by the said San Francisco Dock and Wharf Company. Said Board of Engineers shall make a report as to the plans and specifications, with all convenient dispatch, and shall file in the office of the Secretary of State, one copy of said report, and one copy in the archives of the city and county of San Francisco, and one with the San Francisco Dock and Wharf Company. The Governor shall also have the power to appoint two Consulting Engineers, if he shall deem the same necessary. And if said Consulting Engineers shall be appointed, the report as to plans and specifications of the Board of Engineers, first provided for in this section, shall by the Governor, be submitted to the said Consulting Engineers for examination and revision, who shall submit the additions, modifications, and revisions, if any, made by them, to the Board first provided for by this section, for examination and approval; and if any difference shall arise as to such additions, modifications, and revisions, between the said Board and such Consulting Engineers, then all of said Engineers together may act jointly, or as a Joint Board, with reference to such additions, modifications, and revisions, and shall decide, by a majority vote, all questions connected therewith; and any additions, modifications, or revisions, made by said Board, shall stand as the final report of the Engineers, as to plans and specifications.

SEC. 4. The first section of said work, from Folsom to Vallejo streets, shall be completed in six years, from and after the final report of the said Board, or Joint Board, of Engineers, as to plans and specifications. Said Dock and Wharf Company shall expend at least one hundred thousand dollars in cash, in the actual construction of said work, within one year from and after said final report; and at least two hundred and fifty thousand dollars, in the same manner, each and every year thereafter, until said works are completed; and shall also complete one-third in length of said first section, from Vallejo to Folsom Street, in three years; and one-third part more in two years thereafter, making two-thirds of said first section in five years from and after said final report. A second section, of the same length as said first section shall be completed within six years from the expiration of the time prescribed for the building of the first section; *provided*, nothing herein contained shall be construed to prevent said Dock and Wharf Company from building any portion of said work sooner than is herein prescribed, if said company shall choose so to do. The Board of Supervisors of the city and county of San Francisco shall have the right, from time to time, to fix the rates of wharfage, dockage, and tolls, to be charged by said Dock and Wharf Company; *provided*, that said Board shall not have the right to reduce the said rates so low that the income from said structures will pay less than ten per cent. per year to the stockholders of said company, on their cost, over and above the expenses of operating and maintaining the same; and *provided*, also, that the said Dock and Wharf Company shall not have the right to charge higher rates than the legal rates of wharfage charged by the wharf companies of said city and county, for the year one thousand eight hundred and fifty-nine; and, *provided* further, that the Legislature may, at any time, by law, alter, change, and amend, the rates of dockage, wharfage, and tolls, subject to the provisos before made in this section; and, further *provided*, that all foot-passengers shall have the right of passing over, and landing upon, and embarking from, any of the works by this act provided for, free of charge.

SEC. 5. When the income arising from the rights by this act granted, and from all the works appurtenant thereto, shall have paid back to the

stockholders of said Dock and Wharf Company their costs, with ten per cent. per annum interest thereon, over and above the expenses of operating and maintaining the same, the entire works, lands, appurtenances, privileges, and franchises, shall belong to the State of California. The city and county of San Francisco, or the State of California, shall have the right, after said first section is completed, upon giving one year's notice of their intention so to do, to purchase from said Dock and Wharf Company, all the rights by this act granted; and all property and works erected or created under and in pursuance of the same, and all the works appurtenant thereto, upon paying the costs thereof, or the balance of unpaid costs, after deducting the expenses of operating and maintaining the same, and allowing interest as aforesaid. The said costs, or the said balance of unpaid costs, to be ascertained by a Board of five Commissioners—two to be chosen by the Board of Supervisors of the city and county of San Francisco, two by the said Dock and Wharf Company, and they four to choose the fifth; and in case the said State proposes to make such purchase, the said costs, or balance of unpaid costs, shall be ascertained by a Board of five Commissioners—two to be chosen by said Dock and Wharf Company, two by the Governor of the State of California, and they four to choose the fifth; and in case either the city and county, or State, proposes to make such purchase, and the four Commissioners, selected by the Board of Supervisors and the Dock and Wharf Company, or the Governor and said company shall be unable, within one month after their selection, to agree upon a fifth Commissioner, then the Governor shall appoint a fifth; and the estimate of a majority of said Commissioners shall be final and binding upon all parties. Said purchase may be made by the payment to the Dock and Wharf Company of yearly installments of twenty per cent. on the amount so ascertained, with ten per cent. per annum interest thereon until the whole amount is discharged; and the city and county of San Francisco shall have the preference in such purchase.

SEC. 6. After the first and second sections of said bulkhead or sea-wall shall have been completed, a third section shall be constructed, which shall consist of all the line referred to in section two of this act, after deducting the first and second sections of the work as referred to in section four, which shall be constructed upon the same terms, and within the same periods of time, as provided for the construction of the first section.

SEC. 7. The same rights as are now, or may hereafter be, extended by the laws of this State to railroad companies, in relation to the taking of property for the use of their roads and works, are hereby extended to the said San Francisco Dock and Wharf Company, for the construction and maintenance of the works, franchises, privileges, and structures, in this act referred to; the damages to be ascertained and paid in the same manner as they are by said railroad companies; but no property shall be taken inside of and within the water line boundary lines as described by the act of the Legislature mentioned in the second section of this act, except for the purpose of making a base for said wall, or for the purpose of procuring material for the construction of the works by this act provided for. And it is further *provided*, that the value of any franchises, rights, or lands, or interests in lands, or wharfs, or rights of wharfage, necessary for, and appurtenant to, the works and franchises in this act referred to, belonging to or vested in the city and county of San Francisco, or belonging to or vested in the Board known as the Commissioners of the Funded Debt, under an act entitled "An Act to authorize the Funding of the Floating Debt of the City of San Francisco, and to provide for the Payment of the same,"

passed May first, one thousand eight hundred and fifty-one, or under any other act, or by any other title, or any other persons; in case said parties and said San Francisco Dock and Wharf Company cannot agree upon the value of said rights or interests, shall be ascertained and paid for, and taken by said company, under the provisions of said railroad laws; and any party or parties suffering damages or aggrieved by the construction of the works in this act referred to, may apply by petition to either of the District Courts sitting in said city and county of San Francisco, and have the damages suffered by him or them ascertained and paid for, under the provisions of said railroads laws. It shall not be in the power of said Dock and Wharf Company, or of the city of San Francisco, or of the Board of Supervisors of the city and county of San Francisco, to take from the proprietors of water lots along the said water front, who are in possession under deeds executed by the State of California, or the Land Commissioners of said State, any of said lots, without first providing for just compensation, as provided for in said railroad laws. Should said San Francisco Dock and Wharf Company, or any stockholder of said company, now own, or should they hereafter, prior to the condemnation of the same as provided for in this section, become the owner of any wharfs, docks, piers, or other improvements, along the line upon which said sea-wall or any part thereof is to be built, then the value of such wharfs, docks, piers, or other improvements, shall be assessed in the same manner as provided for ascertaining the value of other property which may be taken by said Dock and Wharf Company; and in estimating the costs of said sea-wall, wharfs, etc., the property thus owned by said Dock and Wharf Company, or any stockholders of said company, shall only be estimated at its value thus ascertained, and all wharfs which may become vested in said Dock and Wharf Company shall, for the purpose of ascertaining its value, be appraised under said railroad laws, and when the Commissioners meet to make such assessment, the city and county of San Francisco may appear and be made a party in opposition to said company, and may appeal as other parties, becoming liable for costs as other parties would.

SEC. 8. The said Dock and Wharf Company shall, on or before the first Monday in February of each and every year, make a report to the Legislature, showing the condition and progress of the works by this act provided for, concisely setting forth the actual amount of receipts into the treasury of said Dock and Wharf Company, also the expenditures for the preceding year, which shall be verified by the oath of the Secretary or President of the company.

SEC. 9. Said company shall construct said work as hereinafter in this section directed; *provided*, said plans are adopted by the Board of Engineers by this act provided for; *provided*, also, that said bulkhead shall be constructed entirely of stone. It shall be made of sufficient width at its base to ensure permanency and stability, and be carried up to ordinary low water line, with such suitable and proper slopes as to give the requisite width at that elevation for base of the upper wall. From ordinary low water line, a permanent wall of solid masonry shall be carried up to the top of the bulkhead, the height of which shall correspond with the grade of Pacific Street Wharf. Said upper wall shall be built in the most substantial manner, of such thickness and slopes as to insure its perfect stability; and all of said work shall be performed in strict accordance with the specifications named in said final report of the said Board of Engineers. Suitable culverts, to allow the draining of the streets ter-

minating upon said bulkhead, shall be constructed through it by said company, as may be provided in said report. The space in the rear of said bulkhead shall be filled up with solid material, by said company, to a level with the superior surface of the bulkhead, and to an extent to the rear, so that, including the bulkhead, the street shall be one hundred and ten feet in width; and the said company shall, as long as it continues to possess said bulkhead, cause such dredging it be done along the front thereof, as may be needful in order to the full and complete accommodation of commerce. Whenever said company shall propose to construct any work provided for in this section, they shall advertise for at least thirty days in three daily newspapers in the city and county of San Francisco, one in the city and county of Sacramento, and one in the city of Marysville, for proposals for the construction of said work, stating in said advertisements the nature of said work and the terms of payment, which shall be made in cash as the work progresses, reserving only so much as may be just to insure the completion of the contract; and shall let the same to the lowest responsible bidder; *provided*, that said work shall be let out in sections of not more than the distance from street to street, extending easterly to the city front; said company, however, reserving the right to do the work, provided they will do it at as low a price as, or lower than, said lowest bidder.

SEC. 10. Wharfs and piers may be constructed, running along the line of said bulkhead, not extending over twenty-five feet from the line of the upper part of said sea-wall, and also running out into the water at right angles to said bulkhead, and extending out, not to exceed two hundred yards from the outer line of said work. The erection of any buildings upon said bulkhead, wharfs, or piers, is positively forbidden, and may be proceeded against as for a nuisance, except that proper wharf offices and toll-houses may be erected on the wharfs and piers.

SEC. 11. Said bulkhead or sea-wall, and all structures, wharfs, and property of every description appurtenant thereto, shall be assessed and taxed for State, city, and county purposes.

SEC. 12. Whenever the Board of Supervisors of said city and county, or the Governor of the State, shall deem that said Dock and Wharf Company has not complied with any of the provisions of this act, they may take a proceeding in the nature of a *quo warranto* in either of the District Courts of said county, in the name of the State of California, to procure the forfeiture of the rights by this act granted; and if at the hearing, said court shall find that said Dock and Wharf Company has not complied with the provisions of this act, said court may proceed to to decree a forfeiture, to the State of California, of all the rights hereby granted, together with all the works and structures appurtenant thereto. Said forfeiture shall not affect any valid liens acquired by *bona fide* creditors of said company, which liens may have accrued or vested prior to a final decree or judgment in such case. Said Dock and Wharf Company shall not have the right, in any case, to incur or make any debt which shall become a lien upon said works, wharfs, piers, or any of the appurtenances, for more than five hundred thousand dollars, without the consent of the Board of Supervisors of the city and county of San Francisco.

SEC. 13. The Board of Engineers shall make and file their final report of plans and specifications as approved in section three of this act, within three months from and after this act shall take effect.

SEC. 14. This act shall not take effect as to said Dock and Wharf Company until the President of said Dock and Wharf Company shall, on the part and behalf of said company, and under authority of a proper reso-

lution, to be passed by a vote of at least two-thirds of the stockholders in said company, (a true copy of which shall be attached to the bond hereinafter provided for,) make and execute to the State of California, to be approved by the Governor, a good and sufficient bond, in the penal sum of five hundred thousand dollars, with sureties, conditioned for the faithful performance of the conditions and requirements of this act, and conditioned also that said company shall not injure or damage the harbor of San Francisco; and upon such bond the stockholders of said company shall be personally liable, as provided for the individual liability of stockholders of incorporated companies by the Constitution and laws of this State. If said bond shall not be filed within thirty days after the passage of this act, the rights and privileges herein conferred shall revert to the State. Said bond shall stand as security to the State of California for the building of said bulkhead or sea-wall until said company shall have completed one thousand feet in length of said works, when said bond shall be canceled, and said works shall be considered as security for the performance of the requirements of this act; *provided*, the Governor shall, at any time before the cancellation of said bond, have power and authority to require the said company, or the President thereof, to renew said bond whenever he may deem from any cause the same is insufficient, and also require them to give sufficient surety to be approved by him; and upon any failure to comply with any such requirements on the part of said company, the same shall be deemed a forfeiture.

SEC. 15. Whenever two-thirds of the property-holders owning any single block fronting upon the line mentioned in section two of this act, upon any portion of said line, shall require a wharf running out into the bay at the foot of any street terminating at the water-line, or if two-thirds of the property holders owning the property upon said line for two hundred and seventy-five feet upon each side of said street, and contiguous thereto, shall petition the Board of Supervisors of said city and county, for the privilege of building said wharf, and shall give security to the satisfaction of the said Board for the building of it, and the said Board shall deem said wharf necessary, and shall pass a resolution to that effect, then said Board shall notify said Dock and Wharf Company of the proceedings taken, and if said Dock and Wharf Company shall fail to commence the wharf specified within sixty days after due notification, as aforesaid, and complete the same, within a reasonable time, then the said Board shall have the power to grant to other parties the right to build said wharf, with the right to collect wharfage, dockage, and tolls, thereat, reserving for the city and county of San Francisco the same rights and privileges as are reserved and provided by this act in reference to said Dock and Wharf Company. Whenever said Dock and Wharf Company shall require the space occupied by said wharf, or any of the rights granted under this section, for the purposes of the bulkhead or sea wall, they shall have the right to take the same, ascertaining and paying the value of the same in the manner provided in section seven of this act.

SEC. 16. The Board of Supervisors of said city and county shall have the right to direct that certain wharfs or piers shall be used for particular classes of trade, as they may deem the public good and convenience of commerce may require, and such direction shall be binding upon said company.

SEC. 17. All acts or portions of acts conflicting with this act, as to so much as conflicts with the provisions of this act are hereby repealed. All the rights, privileges, franchises, works, and structures, referred to in

this act, or appurtenant thereto, shall revert to the State of California, free of cost or charge, at the expiration of fifty years from the passage of this act; *provided*, that if the city and county of San Francisco shall, at any time, purchase said bulkhead, or sea-wall, and appurtenances, in pursuance of the provisions of this act, then the same shall vest in and forever become the property of the city and county of San Francisco; *provided*, further, that the Legislature may, at any time, annul and revoke the rights and privileges in this act granted, and may repeal and modify this act, as such Legislature may deem proper, on providing for a just compensation to said company, under the railroad laws in this act referred to.

SEC. 18. This act shall take effect and be in force from and after its passage.

COMMON SCHOOLS.

SPEECH

OF

HON. Z. MONTGOMERY,

OF SUTTER COUNTY,

TOUCHING THE NECESSITY OF

AMENDING THE SCHOOL LAW OF THIS STATE,

DELIVERED IN THE

Assembly of California, at the Twelfth Session of the Legislature

Wednesday, April 10th, 1861.

SACRAMENTO:

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SPEECH.

PROPOSED AMENDMENTS TO THE SCHOOL LAW.

Mr. MONTGOMERY called for the reading of the bill, introduced by himself.

The Clerk read as follows:

SECTION 1. Section twelve of the act entitled An Act to establish, support, and regulate Common Schools, and to repeal former Acts concerning the same, passed May third, eighteen hundred and fifty-five, is amended so as to read as follows:

Sec. 12. Upon receiving notice from the County Treasurer as provided in this act, the County Superintendent shall apportion to the free public schools (as hereinafter designated,) the portion of the public school moneys apportioned to them by the State Board of Education, after which he shall apportion the residue of the common school moneys remaining in the County Treasury among the several towns, cities, and school districts, in proportion to the number of white children residing therein between the ages of four and eighteen, as shown by the last previous reports of the Common School Marshals and others charged therewith, and shall forthwith, in writing, notify the County Treasurer of such apportionment in detail; and no school district shall be entitled to any portion of the common school moneys in which there shall not have been taught a common school for three months within the year ending on the last day of October previous.

Sec. 2. Section thirty-three of the said act is amended so as to read as follows:

Sec. 33. No books, tracts, or papers, of a sectarian, or denominational, character shall be used, or introduced, in any school established under the provisions of this act; nor shall sectarian, or denominational, doctrines be taught therein; nor shall any of the public schools established under this act receive any of the public school funds, which has not been taught in accordance with the principles of this act; provided, however, that any school numbering at least thirty pupils, established, or adopted, by the parents, or guardians, of such pupils, shall have the right to apply, through a Board of Trustees, for said school, to the State Superintendent of Public Instruction, to be enrolled among the public schools, under the appellation of Free Public School, and to receive a pro rata share of the public school funds, subject to the following regulations and provisions:

First—That the usual branches of common English education shall be well taught in such school for at least five hours a day.

Second—That no religion be taught therein, unless such be the will of said parents, or guardians; and in no event shall such religious instruction lessen the five hours of secular education.

Third—That in places where there shall be no public schools within an area of one mile, any parent, or guardian, shall have the right to send any male child to said school, if it be a school for boys, or any female child, if it be a school for girls; and whenever said parent, or guardian, male, or female, shall object, in writing, to the principal teacher of said school, to the religious instruction given therein, upon such objection it shall be the duty of the teachers of said school to give no religious instruction during five successive hours of secular education, and to allow said child to retire from school before any religious instruction be commenced; any school violating this provision shall be deprived of its pro rata share of the school moneys for one year.

Fourth—The State Superintendent of Public Instruction, or any Deputy appointed by him for that purpose, the County Judge, and the Clerk of the county, shall visit said school at least twice in each year, and at all other times at their discretion, to examine its pupils and vigilantly inspect its management, order and discipline. They shall also furnish the State Superintendent of Public Instruction and the Trustees of said school with a written certificate of such visit and examination at least twice a year.

Fifth—On the first Thursday after the formation of said school, and on the last Thursday of January of every year, the parents and guardians of the pupils of said school shall meet at a time and place publicly announced at least ten days previously by the State Superintendent of Public Instruction, and shall elect from among themselves a President, Treasurer, Superintendent, and Secretary, who shall be the Trustees of said school for one year, and until their successors are elected and qualified. Said Trustees shall appoint, or remove, the teachers, shall superintend the school, shall cause a regular roll to be kept, and shall send to the State Superintendent of Public Instruction a formal application that said school be enrolled among the public schools of the State at its first organization. They shall also send to the State Superintendent quarterly reports of said school, with full details as to number of pupils, classes, etc. together with copies of the same, annual certificates above specified. They shall also make application by their Treasurer, countersigned by their President, to draw the pro rata share of the public fund, to be applied to the benefit of said school, and shall hand over to their successors all books, moneys, and other articles, belonging to said school.

Sixth—The State Superintendent of Public Instruction shall order a pro rata appropriation of the public school moneys upon such application of the said Trustees, through their Treasurer, supported by two satisfactory sureties; provided, that the said State Superintendent of Public Instruction, the State Treasurer, and the Governor of the State, or a majority of them, shall be satisfied, from the report and certificates of said school and otherwise, that said school has been conducted in all respects in accordance with the provisions of this section.

Seventh—On, or about, the twentieth day of October, of every year, the State Superintendent of Public Instruction shall, together with the Governor, and the Surveyor-General of the State, examine the reports and certificates of the free public schools for the previous year, and should they, or a majority of them, find such schools, or any of them, to have faithfully complied with the provisions of this section, they shall determine and signify through the State Superintendent of Public Instruction what apportionment of the school funds should be allowed to such schools respectively; said apportionment to be made according to the number of children attending school in the county in which said free public school may be; such apportionment shall be transmitted by the State Superintendent of Public Instruction to the President of the Board of Trustees of such free public schools and also a duplicate of the same to the County Superintendent, who shall indorse the orders for said apportionment to the Treasurer of the Board of Free Public Schools by the President of the same Board.

Eighth—This amendment shall have effect from and after its passage.

Mr. MONTGOMERY said—Mr. Speaker, I confess that I approach this subject with a great deal of diffidence, combined with an equal amount of interest; with diffidence, because I feel my utter inability to do justice to the subject under consideration; with interest, because I feel that there is no subject of legislation so important as that which we now have to consider; and hence I trust that every member of this body will throw aside all external influences, and deal with the question before us by the light of reason, and his own judgment. I approach the subject with diffidence, also, from the fact that false impressions have gone abroad relative to the real objects of the bill which we are now considering; and because newspaper appeals have been made to the public, and to this body, in order, as I believe, to divert the attention of the Legislature from the real objects contemplated by this bill. The subject of common school education is certainly one that is well worth the consideration of any government, and especially of a republican government; for, in the language of the immortal Washington, "In proportion as government gives force to public opinion, in the same proportion should public opinion be enlightened." Sir, I feel that I am now pleading the cause, not of a railroad company, not of a political party, scrambling for office, but that I am pleading the cause of hundreds of thousands—yea, of millions—yet unborn, into whose hands is to be intrusted the helm of government, when we, sir, shall have been laid to sleep in the cold grave. Sir, as we educate our youth, so we may look forward to liberty, prosperity, and national happiness, on the one hand, or to tyranny, ruin, and national misery, on the other. Hence the importance of this subject. It is one which inspires me with an intense interest, but at the same time depresses me with a consciousness of my own utter inability to grapple with it. Let us then come to this subject, and deal with it, in the light of reason. I shall, I trust in God, say nothing that will offend the delicacies, the sentiments, or the prejudices, so to speak, of any of my fellow members upon this floor; and if, in the heat of debate, I should say anything that ruffles the feelings of any one, I trust he will attribute it to the interest I feel in my subject, and not to any deliberate intention on my part to offend.

What is the object of a common school education? I understand it to be to make good citizens, so far as the government is concerned. The government has no view beyond that, and should have no view beyond so far enlightening the intellect, and correcting the morals, as to make each individual member of society contribute to the general good. A government cannot look beyond the bounds of time, into eternity. The government has no right to speculate as to men's religious principles, or prejudices. The government only takes cognizance of the question, "what is necessary to make good citizens of those who are rising in our midst from infancy to manhood?" Keeping steadily in view this object, the making of good citizens by cultivating the head and heart, so far as is necessary for that purpose, we come to another point, and that is, how far should government interfere with the peculiar notions of the parents of children, in establishing a system of common school education. There is a bound beyond which government should not go; a

line, which government should not cross. There is a circle within which it should operate.

Now let us examine where that line is. I lay it down as a principle that the government should, for educational purposes, subject neither parent, nor child, to any more restraint than is necessary for the accomplishment of the desired end. In other words, that both parent, and child, should be left perfectly free as regards everything which does not counteract the acquirement, by the child, of a good common school education. Does any body deny that? For example, government should not prescribe the particular kind of dress which the child should wear; nor the diet which he should eat. That is a matter with which government has nothing to do. The government should not interfere with the religious sentiments of any child, whether he be the child of a Christian, Pagan, or Jew. That is a matter that belongs to the parent, and to the parent alone, while the child is in its infancy, and the government should not interfere in it. And mark me! Whenever the government does interfere, either directly, or indirectly, with any of those liberties which belong to us as individuals, that moment she drives us from the common schools, and defeats entirely the object of the common school system. For example, suppose a system of education to be such that no member of the Methodist Church could conscientiously send a child to a school conducted upon that system, is not every member of that denomination thereby deprived of all the benefits of the common school system? If you establish such a system of education as that, a member of the Methodist Church, or of the Baptist Church, or of the Presbyterian Church, or of the Roman Catholic Church, cannot conscientiously send his children to the schools, you defeat entirely, so far as he is concerned, the purposes of the common school system, although it might be the most perfect system in the world.

Again, if the teachers are such that the parents will not intrust their children to their charge, do not those parents and their children lose the entire benefit of your common school education? Non-attendance is the result whenever you undertake to encroach upon the rights of individuals, to whatever creed or country they belong. Now, let us illustrate. How is it here in our own State? I have before me the report of the Superintendent of Public Instruction, from which it appears that there are within the State of California fifty-seven thousand nine hundred and seventeen children entitled to attend the public schools; and there are but twenty-six thousand nine hundred and ninety-three that attend any public schools at all. Less than one-half of the children in this State entitled to attend the public schools ever go inside the doors of those schools. You may tell me, perhaps, that the rest go to private schools. But I find that there are only five thousand four hundred and thirty-eight that attend private schools, all told; and the remainder of your children—nearly one-half—neither go to private nor public schools from the beginning to the close of the year. Here is a stubborn fact! More than one-half of the object of your school system is destroyed at one fell swoop; one-half of the children of the State are deprived of the education that belongs to them. Two hundred thousand dollars and more are taken

from those children to whom it rightfully belongs, and transferred to those for whom it was never designed. This is a fact. These are figures.

But perhaps you will tell me that this results from the fact that in out of the way counties, where the population is sparse, the children do not live within the reach of schools. Well, to meet that objection, I will go down to San Francisco, and I will take her Common School system and see how it operates there, as that is supposed to be the center of enlightenment, of morals, and of purity. I do not say this by way of throwing any slur upon San Francisco as a city. I know there are many excellent people there, and this may be one reason why their public schools are so badly patronized. I find that in the city of San Francisco, there are nine thousand and twenty-five children entitled to attend the public schools. I find that the children, all told, who attend public and private schools, amount to six thousand one hundred and eight, and upwards of two thousand of these attend private schools, which leaves about four thousand of the total of nine thousand children in San Francisco who attend the public schools at all, from the beginning to the close of the year. Less than half of that proportion attend daily, and yet they have daily schools there throughout the year. They have twenty schools in San Francisco that are kept open over nine months in the year; and yet I find, attending public and private schools altogether, there are but two thousand eight hundred and thirty children in average daily attendance. I cite this as an instance. There, in San Francisco, where the amount of money collected during the past year for school purposes was upwards of one hundred and eighty-eight thousand dollars, I find that a little more than one-third of the children reap the entire benefit of that amount of money, and the other two-thirds reap not the benefit of one cent of the School Fund. Is this a matter of no consequence to us? Is that a matter of no importance to us? The proportion in Sacramento is nearly the same. Now, let us see, and inquire further into the causes which operate to deter the attendance of children upon our common schools in this country, and, if possible, let us come up like men and remove these causes. Let us not shrink back and be appalled by the cry of bigotry and sectarianism, but let us come up and look at this question, every man for himself, and before God, if the measure be one of bigotry and sectarianism, I will join with you and help to vote it down; but if it is fair and equal, if it treats all alike, whether Christian, Pagan, or Jew, and if it does remove one of the great obstacles in the way of a good common school education, I then ask you to come up like men to the work and carry it through. Now, as to the causes: I find from the reports of the County Superintendents of many localities in this State, that the cause of non-attendance, in many cases, is dislike of parents for teachers. That is one of the causes. I find here, in the report of the Superintendent of Santa Cruz county, the following: "I find almost invariably that if the parents do not have friendly feelings towards the teachers, they will not allow their children to attend." That is perfectly natural. "Almost invariably, if the parents do not have friendly feelings towards the teachers, they will not allow their children to attend." And he goes on to say: "Some measure

should be adopted to compel their attendance." To compel their attendance? What! to compel a parent to send his child to a teacher whom he abhors? Yes, that's the remedy. Now, it may be that these teachers are competent, and it may be that they are not. Let us learn from the reports of the Superintendents. I read from the report of the Superintendent of Alameda county. He says: "We have a few first class teachers, but the majority of them have need to learn. Some of them are very deficient in reading and writing, but qualified in other respects." Very deficient in reading and writing, but qualified in other respects! That is, they do not know the lower branches, but they know the higher ones remarkably well! Well qualified in everything but reading and writing, and that is in Alameda county. And yet, the Superintendent of Santa Cruz county would have a law passed to compel children to go to school where they could neither learn to read or write.

But there are other causes in the way of the attendance of children at school, some of which I will inquire into. One of them is this: We have here in California a mixed population, coming from every quarter of the globe—some of the most degraded, unprincipled, and criminal, amongst those that bear the name of man. They have come here from Great Britain and France; they have congregated here from Paris and from London; they have come here from within the prison walls of every country in Europe. They mix with our population. Their children have learned infamy and crime from their parents from the day they were born to the day when they reached a period suitable to attend school. And what is the consequence? Why, sir, the virtuous parent, after paying his taxes for school purposes, must either keep his children at home, or send them to school to mingle with the vilest of the vile. These are facts. I see the gentleman from San Francisco taking notes, and I trust he will take notes. I appeal to him, as I expect him to reply to me, to say whether in the city of San Francisco the public schools are not in many instances, found to be schools of infamy of the blackest dye.

Mr. BANKS—I deny the charge most emphatically.

Mr. MONTGOMERY—He denies the charge. It is very easy to deny charges. I know this, Mr. Speaker, that the crimes to which I allude are of too infamous a character to name in this body. I wonder if the gentleman from San Francisco denies, as a matter of fact, that illegitimate offspring have come from those schools in San Francisco. I wonder if he denies it. I have it from good authority, and it is not an uncommon thing either. I could go farther, but that is enough, God knows. It embraces the whole history of crime and infamy, and I do not believe that the gentleman from San Francisco, with a knowledge of the facts, will deny it. And yet a man must send his children there. He must send his boy, ay, and his tender infant daughter there, and if he does not do it, he is a bigot and a sectarian. These are facts.

Now I will turn my attention from San Francisco and I will look to another little city up here. As present company is always excepted, I will not say anything about Sacramento, but I will go up to Marysville. That is the place where remonstrances originate. I beg leave to read from an article

which I observed in the Marysville *Express* in the early part of the session of this Legislature, coming from a man who lived an immediate door neighbor to the common school in Marysville. The writer does not give his full name, I suppose for reasons sufficient for himself, probably in order not to excite too much enmity, but he states that he is a next-door neighbor of the school, and signs himself "W. J. M." In speaking of the character of the school, he says:

"Now, sir, is there any remedy for such conduct? Can it be stopped? I have children, and every day of school they listen to volumes of profanity, to language that almost stinks! It may be said, 'Keep your children in the house.' Suppose I do, the vile oaths steal through the cracks, crawl on the floor, and leap to the ear of the innocent child, even at the family altar."

And yet, sir, it so happens that Marysville is the only place in California that has remonstrated against the passage of this law. Oh! thou city of purity and innocence! Oh! thou perfection of the Common School system! The details are too disgusting in this connection. Delicacy of men forbids that I should go into detail further. Sirs, the crimes that are perpetrated daily at many of these schools would make the most hardened criminal blush to name!

But there is another objection to these schools. There is another, and to my mind, a serious objection—an objection that touches me and every American citizen, and that is an objection as to books. I hold in my hand a book which is entitled "The Elements of Moral Science," a book that I am informed has, for some length of time, been used in the High School of San Francisco. "The Elements of Moral Science," a most beautiful name, is upon the back, but inside it is filled with abolition principles. I will read some of this "moral science." Here the writer institutes a comparison between the Northern and the Southern States. It might be a very good thing in the mouths of some of these newspaper editors—a good thing in the mouth of the political demagogue—but certainly it is not in a book of "moral science." Here it is:

"Many of our free and of our slave-holding States were peopled at about the same time. The slave-holding States had every advantage, both in soil and climate, over their neighbors. And yet the accumulation of capital has been greatly in favor of the latter. If any one doubt whether this difference be owing to the use of slave labor, let him ask himself what would have been the condition of the slave-holding States at this moment if they had been inhabited from the beginning by an industrious yeomanry, each one holding his own land, and each one tilling it with the labor of his own hands."

I have not come to the good part of it yet, though:

"But let us inquire what is the doctrine of revelation on this subject."

Yes, under the guise of moral science you must go into revelation, and that is non-sectarian! Oh, there is no bigotry about that—no sectarianism about it—it is all "moral science," and the revelation of God upon the subject of negro slavery.

"The moral precepts of the Bible are diametrically opposed to slavery."

Now, there are various opinions about that. My friend from San Joaquin (Mr. Laspeyre,) who occupies the chair, would not like to send his child to that school I know.

"The moral precepts of the Bible are diametrically opposed to slavery. They are: Thou shalt love thy neighbor as thy-

self, and, all things whatsoever ye would that men should do unto you do ye even so unto them."

Again, I read from page two hundred and ten of the same book:

"The following will, I think, be considered by both parties a fair statement of the teaching of the New Testament on this subject. The moral principles of the gospel are directly subversive of the principles of slavery"—(that is certain he thinks)—"but, on the other hand, the gospel neither commands masters to manumit their slaves, nor authorizes slaves to free themselves from their masters; and also, it goes further and prescribes the duties suited to both parties in their present condition. First—Now if this be admitted, it will, so far as I can see, be sufficient for the argument. For if the gospel be diametrically opposed to the principle of slavery, it must be opposed to the practice of slavery; and therefore were the principles of the gospel fully adopted, slavery could not exist."

In other words, let them establish that gospel precept in their common schools, and under the guise of moral science, and they will abolish slavery. Again, sir, and here is the climax of this moral science. I read now from page two hundred and fourteen of the same book, where it says:

"If the system be wrong, as we have endeavored to show; if it be at variance with our duty both to God and to man, it must be abandoned. If it be asked 'When?' I ask again 'When shall a man begin to cease doing wrong?' Is not the answer always, 'Immediately?' If a man is injuring us, do we ever doubt as to the time when he ought to cease? There is then no doubt in respect to the time when we ought to cease inflicting injury upon others."

There is your "moral science" taught in the High School of San Francisco, under a system which is so much preferable to what some choose to style a sectarian system, although that sectarian system make no discrimination between sects, between the Christian, the Pagan, the Jew, the Gentile, the Atheist, Deist, or what not. Sir, it requires no mind of a philosopher to see that it is such "moral science" as that introduced into the schools of the New England States, and of other States that has split asunder the greatest, the grandest, and the most powerful, republic that God has ever permitted to exist upon the face of the earth. Growing bold under the advice of William H. Seward and teaching their anti-slavery doctrines in all the common schools, they have succeeded in bringing up a race of men who have stopped not at trampling under foot the Constitution of our country; who stopped not to pull down the massive pillars which our fathers reared to support and sustain the great temple of liberty, and all for "moral science." I notice that the gentleman from San Francisco yawns. I suppose he thinks the subject is not interesting.

Mr. BANKS—I assure the gentlemen it was not in reference to any of his remarks.

Mr. MONTGOMERY—All in good part, my friend. Now, Mr. Speaker, there is a great deal of talk about religious liberty. Our Constitution guarantees religious liberty to every man. It is unnecessary to read that; it is familiar to every body; yet I will read it. Section four of article one of the Constitution of California, reads:

"The free exercise, and enjoyment, of religious profession, and worship, without discrimination, or preference shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief," etc.

Now, how does the school system, as at present conducted, comport with this idea of religious liberty? Does religious liberty embrace the right the parent has to inculcate his own religious principles

into the mind of his child? Is not that a part and parcel of religious liberty? And, sirs, does not this religious liberty consist as much in protecting your children from the contaminating influences of that vice which is acknowledged by all to be a vice, as it does in protecting them against the peculiar tenets of another denomination of Christians? Why, if it is a question of protecting a Baptist against having his child, or children, imbued with Methodist doctrines, you would say that is a right which he can claim. If it is a question of protecting a Presbyterian against having his children imbued with Catholic doctrines, you will say that is a right which he can justly claim, and so he can. But if it is a question of a Catholic, Methodist, or Baptist, protecting his children against the contaminating influences of vice and crime, in its most odious and horrible deformity, why then you will say it is sectarianism; and if he asks to be exempted from the necessity of paying taxes for the privilege of sending his children to a school that is filled with crime and infamy, then you will call it sectarianism. Now I maintain that religious liberty guarantees to a man the free and perfect right to keep his children out of crime, out of dissipation—to keep his children from obscenity, and all its entailed consequences. It is as much a right under this guarantee of religious liberty, as it is to keep his children safe from the teachings of other sectarian denominations. It is all a part of religious liberty. But to return to this question of moral license. Do we not know, sirs, that upon this very question of slavery the Methodist Church is divided? Do we not know that it has split asunder, and formed two churches of very respectable numbers, one section holding that slavery is a crime, and the other that it is not? Sirs, is it consistent with religious liberty to require a member of the Methodist Church South to send his child to study the doctrine of that book from which I have quoted? Do you tell me that is religious liberty? I tell you it is not in accordance with my early convictions of religious liberty. It is shaking the very corner stones of the temple of both civil, and religious, liberty.

But you will tell me, perhaps, that the system is not responsible. You will tell me that improper books may find their way into the schools, and may be taught there, but that the system is not responsible. Now let us see whether it is responsible, or not. Let us look at it: Why, sirs, to begin with, you have your Governor, your Surveyor-General, and your Superintendent of Public Instruction, that constitute your Board of Education in the State. Now, sirs, if that Board, through neglect, or otherwise, are in the habit of permitting books of this character, just referred to, to be used in our common schools, I ask if the system ought not to be so changed as to place the duties of that Board in other hands, where they would be exercised with more discretion, and more justice. But again: If under the present system the State Board of Education happens to be Abolitionists, I ask if they will not admit that book into the schools, even after the most diligent investigation of it? Why, it is "moral science," they say! Yes, the Republican party will admit it to-day; and to-morrow, when the Democratic party gets into power, they have another moral science to be taught to our children. Ain't it so? Thus our children will be required, one year, to learn one moral science, and the next year to learn that

that moral science is filled with crime, and everything that is rotten, and disreputable. Again, is it fair—I appeal now to the common sense of every man—is it fair that a minority of the people should have their children compelled to study those books that happen to be pleasing to a majority, while they contain doctrines which they regard as corrupt in their influences, and consequences? I ask if this is consistent with religious liberty, or political liberty either? What is the consequence? The child goes to school, and he is taught politics, and taught, (it may be that his father is a simpleton, because he has never yet discovered that a negro is any better than a white man,) taught, perhaps, to ridicule the father who watched him, and trained him, and who now would, at any moment, give the last drop of his life-blood if it would promote that child's welfare. Yes, this is one of the fruits of the system as it now is. It is the same in regard to religious matters. In a book, which purports on its title-page to be a history, religious questions are treated of, and it is attempted to fasten odium, misrepresentation, and calumny, upon the creed of those whose children are attending those schools. But suppose that the objectionable books were all excluded, is it not in the power of the teachers, in a thousand ways, to inculcate their own principles into the minds of the children? Before a child can progress in his studies he must learn to have the most implicit confidence in his teacher. We all know, when we were little fellows, nine, ten, twelve, years old, with what entire confidence we listened to every word that fell from the mouth of our teacher. We looked upon him as inferior to no man. Why, the little pedagogue that had his little band of children around him, occupied the position of an absolute monarch, so far as their minds were concerned. They believed all that he told them.

That was the way it was when I was a boy, and I suppose it is so yet. I know of a thousand ways in which the teacher can inculcate his own doctrine into the minds of the children. It may be done by word. It may be done by look. It may be done by a smile, or a contemptuous scowl. There are a thousand ways in which the teacher can impart his own ideas, or his own prejudices, or his own convictions to the minds of his pupils. These things we all know to be so. We hear a great deal of complaint about parents not taking interest in the common schools of this country. It is a common complaint that runs through the reports of nearly every County Superintendent of Public Instruction in this State. They say the parents take no interest in the subject of public education. Whilst on this subject, I will read a few appropriate remarks in this connection, delivered by the Rev. Mr. Fitzgerald, at Vacaville, on the 27th of February. Mr. Fitzgerald is a Methodist minister, and a man whom I esteem highly, from the acquaintance I have had with him. In regard to the want of interest which parents take in our common school system, he says: "We should very carefully guard against abuses that are liable to arise from the letting out of the instruction of our children by contract. Such contracts are usually performed with an eye rather to the salary than to the public interests. The common school system, with all its conceded benefits, is attended with its dangers—one of which is the lack of interest and sense of responsibility on the

part of parents. The State is left to manage the whole subject. Taxed indirectly for the support of the common schools, the parent has little feeling of ownership in them, and consequently but slight interest in looking after their management. I have known a father in this State—an intelligent gentleman, too, and a good citizen—who could not tell me the name of the teacher to whom his son was being sent at the public school." This is but an illustration of the complaint that is everywhere heard in regard to the want of interest which the public feel in the common schools of the country. I shall endeavor to show why it is. Sir, go to any government upon earth, and wherever you find that the people directly interested have but little to do in any subject of government, you will find that they take but little interest in it. Go to an absolute despotism, where the whole power is vested in one man, and look abroad among the masses of the people. They move to and fro; they act under orders; but they never stop to inquire who issues the order. They never stop to inquire as to the character of their own government. They never stop to inquire whether it is a good government or a bad one. They take no interest in the Government simply because the Government is placed beyond their reach. Now, this is a principle that applies to our common school system in this country. Who is it that has the management of the common school system? Is it the parents of children who are directly interested in the subject, to whom the great Creator of the universe has entrusted the care and custody of those little ones? They are the parties who, above all others, are interested in the welfare of their own children. But who is it that controls the matter of public education? Why your teachers are employed by a Board of Trustees that are elected at our general elections. Who are those Trustees? Why, they are men whose names are placed on a particular ticket, in consequence of the influence that they can bring to bear on election day. Picture to yourself two individuals on election day, going up to the polls to vote for School Trustees, as well as other officers. The one is a high-minded, virtuous citizen, and the father of a dozen children, if you please. The other is a drunken vagabond—a man who has no interest in heaven, nor in earth—a man who has neither property, children, nor reputation—and that man has as much power in determining who shall be the teachers of the children of the country as the man who is the father of a dozen children, and who values their welfare above all earthly considerations. In proportion, then, as you take the power from the hands of those who are interested in the subject, in the same proportion do they give up all interest in it. Another reason for the want of interest felt in our common schools is traceable to the fact that the teachers are not responsible to the parents; they are responsible to the Board of Trustees, and the Board of Trustees are responsible not to the parents, but to everybody and therefore to nobody—for what is everybody's business we all know is nobody's business. Thus the teachers, in the language of the Rev. Mr. Fitzgerald, look rather to the subject of their pay than to any other circumstance. What is the consequence? Why, we have a class of roving, carpet-bag teachers. From the report of the Superintendent of Public Instruction, I learn that there are in this State but two hundred

and sixty-five public school teachers who follow that occupation as a business; while on the other hand there are five hundred and sixty-six who are following it as a mere temporary occupation, for the want of something else to do; five hundred and sixty-six teachers of that class are now having the charge of the children who attend the public schools of this State. Again, in San Francisco, where they certainly have not the most virtuous population in the world, they have seventeen male teachers and fifty-seven female—fifty-seven female teachers to have charge of the boys, young and old, of San Francisco!

It may be asked how the present bill proposes to amend these difficulties. I say first, by placing the education of children more under the immediate control of the parents upon whom the God of nature has imposed the education of their children. This bill proposes that the parents and guardians of children should select their own Trustees, and those Trustees should select the teachers. This brings the matter home to the parties directly interested; and if they don't, under those circumstances, obtain teachers that suit them, it is their own fault. Now let us see the advantages of this system. The bill proposes that whenever a certain number of children—say thirty, or more—attend one of those free public schools, they shall be entitled to their pro rata share of the public money, no matter whether they be Catholics, Baptists, Methodists, Presbyterians, Jews, Infidels, or anything else. I deny and hurl back the charge into the teeth of those who make it, that there is one particle of sectarianism from beginning to end in this bill. Now what effect would this have on the teachers? Why, the more pupils a teacher got, the more his pay would be. Is not that so? And consequently, the teacher would have an inducement to do justice to every child, and not wantonly offend the feelings, or even the prejudices, of any, lest, by driving the child from school, he should affect his own pocket. Hence, if he were a Methodist, a Baptist, a Presbyterian, or a Catholic, teacher, it matters not which, his self-interest would be a strong and constant incentive to deal justly both with parent and child. Is not that plain? While under the present system established by government, the teacher being fastened upon community by irresponsible Trustees, who hold office, it may be, at the hands of an unscrupulous political party, may so treat his pupils as to drive the last one of them from school, and yet his pay goes on all the same.

Again, we are met with the objection that this bill is sectarian in its character. I would like to submit—because I expect to hear from the Chairman of the Committee on Education—I'd like to submit to him the question which he may answer at his proper time, as to what he understands by sectarianism? I understand by sectarianism this: that system which gives the preference to one sect over another. I do not understand that that is sectarian which protects all sects and denominations alike. If it is, we have several sectarian laws already; and our Constitution is sectarian, because it guarantees to every citizen the right to worship God according to the dictates of his own conscience. The Constitution protects alike the Protestant and the Catholic, the Christian, Pagan, and Jew, and if that protection is sectarian, then strike out that clause from our Constitution itself. Again, we

have laws which protect the church property of every denomination of Christians. Our laws do not permit a mob to invade the precincts of one of your Methodist churches South, nor one of your Methodist churches North, nor your Presbyterian, nor your Baptist, nor your Catholic church. They protect them all alike, and properly so. Again, the Constitution will not allow a man to be interfered with in the free exercise of his religious opinions, be they what they may, so long as he does not encroach on the rights of others, or on the rights of society. Is this sectarianism? If it is not this bill is not sectarian, if it can be shown to treat all alike, and that it asks no special favors, or immunities, for any. Yet, the report of the Chairman of the Committee on Education—and I say the Chairman because I do not know whether, or not, anybody else concurred with him—although I admit there was no minority report—urges as one of the objections against this bill that it is sectarian in character. I will read from the report signed by Mr. Blair, of Monterey: “By Mr. Blair, from the Committee on Education—The Committee reported that Assembly Bill No. 348 should be indefinitely postponed, because, first, it allows private schools by parents, or religious denominations, to receive their pro rata share of the Public School Fund, whether such private schools give instruction to all sexes, classes, etc., of pupils entitled to the benefits of the Public School Fund, or not. Second, it permits such private schools supported by the public fund, to devote a portion of their time to sectarian religious instruction.” What he means by “all sexes,” I do not know. I don’t know how many sexes they have in Monterey.

Mr. BLAIR—I will simply say that the gentleman is misrepresenting the report. I will ask him to state the proposition as it is, or not at all.

Mr. MONTGOMERY—I was reading from the *Union* report.

Mr. BLAIR—I do not know that it is exactly correct.

Mr. MONTGOMERY—I merely alluded to it by way of a side remark. I felt a little tired, and thought I would rest on the shoulders of the gentleman from Monterey for a moment. [Laughter.] But I go on to read from the gentleman’s report: “The spirit of our institutions seems to recognize no sectarian religion whatever, further than to secure to all the free exercise of their religious faith, and to protect them in the right thereto. The children of all citizens, Jews, Pagans, and Mahomedans, as well as the various Christian sects, are entitled equally to all the benefits of our public schools and Public School Fund, and we should make no distinction, nor grant any special privilege therein by law.”

Now I call on the gentleman from Monterey, in his own good time, to tell me in what particular this bill proposes to make any discriminations between sects, or between Christians, Pagans, or Jews. I say in charity to the gentleman, that he certainly never read the bill, or he would not have talked about things that do not exist—that have no reality except in the imagination of the gentleman, and in the columns of certain newspapers. Those ideas were never drawn from this bill.

Mr. BLAIR—I would like to ask the gentleman whether he asserts as a proposition that our government does make any discrimination?

Mr. MONTGOMERY—Certainly not. And I say, does this bill do it? and if so, for what denomination does it make a discrimination?

Mr. BLAIR—The report does not assert that it does. It does assert that for a portion of the time of instruction, religious instruction of some kind or other may be given. I call the gentleman’s attention to that fact.

Mr. MONTGOMERY—Does not that apply equally to Christians, Pagans, and Jews, Protestants, and Catholics, alike?

Mr. BLAIR—Certainly.

Mr. MONTGOMERY—Then where is the propriety of embodying in the report an argument upon religious discriminations—where the necessity of building a straw house, of making a scarecrow with which to frighten the public? I defy any candid man to find any such thing in this bill. Is there anything there to operate on the Jew? It operates equally hard on the Christian. If there is anything that operates hard on the Methodist, it operates equally hard on the Catholic—upon all alike. Sir, I repudiate the charge of sectarianism, or bigotry, which I find couched in this report; for if there is one thing, more than another, that I do abhor from the inmost recesses of my soul, it is a bigot. I care not whether he talks about bigots or not, and so help me God, I would sooner permit my right arm to be severed from my shoulder than I would vote for any bill that discriminated in favor of any sect. I feel that while I have a right to my own particular religious notions, I have no right to enforce them on others; I have no right to ask the Legislature to discriminate in favor of my particular views. And I tell you here that I should deserve the condemnation, the contempt, the united scorn, and infamy, of my race, as long as I should live, if I was to advocate a bill that contained the principle which is hinted at in this report of the gentleman from Monterey.

But further, now let us see what this “sectarianism,” all amounts to. This bill proposes that a certain number of hours shall be set apart by law for purposes of secular education. The State has a right to demand this. The State, in contributing money for a particular purpose, has a right to demand that that purpose is complied with. She has a right, therefore, to require that a certain number of hours in the day, for a certain number of days, shall be set apart to secular education, and this bill proposes to do that. And the State has a right to require that during these hours no religious training shall be taught. Because those hours are the property of the State, and the time of the children we may admit during those hours belongs to the State. But, sir, can she go beyond that? Now the bill only asks that after the demands of the State have been complied with, after the accomplishment of the prescribed time, whether five, six, or seven, hours, it matters not which, and I will not be particular as to the number of hours, the bill proposes that after the time shall have expired which the State thinks it is necessary should be devoted to secular education, the children should be free, or rather, that the parents should be free to have the control of their own children; and if they desire to teach them Methodism, Presbyterianism, Catholicism, or what not, they have a right to do it. Can the State go beyond this time? I maintain that if the State can go one inch beyond the time which she may

determine to be necessary for the purposes of secular education, she can follow the child into his father's house, attend him by day and by night, and forever shut out from his mind all such religious, or other, instruction, as the parent might desire to bestow upon him. Can the State do this? Can the State, after she has had the benefit of all the time which she herself claims to be necessary for secular education, turn to the parent and say: "Although my time has expired, still you shall not have the privilege of having your children taught any religious doctrines. You may, after the school hours are over, have them taught to curse, and to swear, and to use obscene language, and, so far as I, the State, am concerned, it is all right. You can still continue to draw your school moneys, but don't you dare to contaminate them with religious doctrines, or you forfeit all interest in the School Fund."

And yet you will tell me this is religious liberty; but I tell you that it is the blackest religious, and political, tyranny. I tell you, sir, the opposition to this bill grows not altogether out of opposition to any particular creed of Christians, but, when the bill is understood, it grows out of opposition to all kinds of religion, and I will show it. It does not strike at Catholicism alone; it strikes at Presbyterians, at Methodists, at all the denominations of Christians. I will read from an article which appeared in yesterday's *Union*, in the shape of an extract from a San Francisco paper, upon this subject. It is headed "Tinkering with the School Laws," and refers to this same bill. To show how the thing is understood, I will read:

"No greater evil could befall our State than the creation of a law of this character, for it at once makes the State Government the propagator of creeds, isms, and theories, with which the political power, under our system of government, has nothing to do, and should have nothing to do. The bill under consideration allows the formation of schools, independent of the regular school authorities, to consist of at least thirty pupils, in which school religious doctrine may be taught, if the parents of the pupils so desire; and said schools are to draw their *pro rata* of the general School Fund. Put such a law in force, and in a short time San Francisco would be filled with Methodist Schools, Presbyterian, Roman Catholic, Baptist, Unitarian, Lutheran, and Episcopal, schools, all 'running on their own hook,' in one sense of the term, each industriously engaged in cramming the minds of the young with various church creeds, and dogmas, breeding future generations of schismatics, and bigots, who will have been brought up to hate and despise the religious notions of each other."

Here, Methodists, Baptists, and Presbyterians are told that to teach their own children in their own way is to breed schismatics and bigots. If that is so, the argument proves too much. Why, sir, have we not already got private schools devoted to religious purposes? Are the Methodists, the Baptists, the Presbyterians, and the Catholics, willing to admit that their private schools, supported by their own funds, for their own religious purposes, are the mere instruments of bigotry and schism? If they are willing to admit that, why not abolish all religions at once? It is only one step from it. Is it a fact that all religions are but the sources from which spring bigotry, enmity, and schism? If so, the next step will be to have a constitutional amendment by which all religious creeds are to be abolished at one fell swoop. I ask if that is not the legitimate consequence from the reasoning which I have just read. But they say that the Government ought not to contribute by its money to the support of religious denominations. That is so. Now let us examine the matter coolly and

quietly, like men of reason, and see whether the bill does that thing. The Government, I admit ought not to pay its money to support religious schools. We will suppose there are two schools—one upon the basis proposed by this bill, and the other upon the basis of the present common school system. We will suppose that one of them is upon I street, and the other upon J street, in this city—the one a free common school, and the other a common school as now established. We will suppose there are forty children attending each of these schools. These children assemble respectively at eight, or nine, o'clock, if you choose, and they stay till four o'clock in the afternoon. In each of those schools, up to four o'clock each day, the time is devoted to secular education, and to that alone. But when the schools are dismissed, one of them only dismisses the ordinary classes, and calls up a Bible class, if you choose, and the children, at the request of their guardians and parents, are taught a lesson in the Testament. Now, sirs, why should not both schools draw the same amount from the Public School Funds? Would not both draw the same amount under the proposed system, and then how does the State support religious education? Why, sir, she has got all she bargained for. She has got her three months in the year, or six months, as the case may be, and her five, six, or seven, hours a day, whatever she asks for, just as much in one as in the other school, and she pays no more for it. Is not that so? She pays no more for it, and what is the consequence of refusing this privilege? I will tell you in plain terms what the consequence is. It is to impose a penalty upon those who impart their religious doctrines to their children. It imposes a penalty, and that is the whole of it. The one school complies with the requirements of the law, and the other school complies with the requirements of the law—the one without the addition of any religious teaching, and the other with the addition of religious teaching. But the one draws its pay, and the other forfeits it. Why? Because the law imposes a penalty, not for failing to comply with the requirements of the law in giving the children a good common school education; not on that account, but because after the common school is over, after the labor of the day which the law requires has been performed, the parents see fit to have their children taught their religious doctrines. The State then imposes a penalty upon their religion, and that is all of it. And yet we are told this is religious liberty, and, to doubt it, is bigotry and sectarianism! If so, I prefer to be a bigot and a sectarian, and I shall glory in the name. If to plead for the equality of my fellow citizens, so far as to allow each man to teach his own child whatever creed he pleases, be bigotry, I say that bigotry has become honorable.

But they say that this system will split up the Common School Fund. Now I beg the attention of every member while I refer to that subject. They say it will split up the Common School Fund, and thereby destroy its virtue and effect. Now, I am free to admit that it will split up the Common School Fund to some extent, and if the splitting up is a benefit and not a disadvantage, let us split it, that is all. It is now split into several hundred pieces. Why? Because it is thought to be a benefit to split it. You do not keep it all in San Francisco, or in Sacramento. Why? Because it is

thought to be better to send a little of it up to Maryville, where they have that excellent public school I have referred to, and a little of it to Shasta, and a little of it to Trinity, and there it is divided up again into various parcels amongst the children of the counties. Why? Because it is thought that such a division is beneficial. It is not always, then, that division is wrong. Let us not then, get alarmed at the word "division." Why, we divide our victuals. We do not assemble as they did in Sparta, all together, to drink black broth at a common table; but each man sits down at his own table and partakes of his meal. But whilst we are not required to sit at one common table and drink black broth together, our children are required to sit at one common table and drink the black broth of infamy and crime. It is that which I object to. Let us see whether this division would not be beneficial: let us see how it would operate. In San Francisco they have 9,000 pupils entitled to attend the public schools; about two-thirds of these children cannot attend these schools, some for one reason and some for another; some because their parents believe that to send their children to these public schools would be the ruin of them, both for time and eternity; others do not send their children there because they do not like the character of the teachers, or the character of the books that are employed in them; and the consequence is, that only about one-third, or a little more than one-third, of the pupils in San Francisco entitled to attend the public schools, do so. The result of this is that only a little over 3,000 pupils receive the benefit of \$188,000, and the other two-thirds get no part of the benefit of that money. Now, it may be a good thing for that one-third to talk about the evils of dividing the School Fund, but it reminds me very much of the greedy boy, who stands eating an apple, and when his brother boy, standing by, calls for a division of the apple, he says it would be very disastrous to him to divide it, and he prefers to take it all, notwithstanding that a part of it belongs to another. So, in San Francisco, it may be considered a hard thing to take from 3,000 children the two-thirds of the School Fund, which does not belong to them, and transfer it to its rightful owners, and it may be hard, but I think it is fair and just. Why, suppose all these 9,000 children were to go to the common schools of that city. Would not they have to employ an additional number of teachers, and build an additional number of school houses? Would they not have to increase their expenses in other respects? So that, after all, this one-third of the children would not get the benefit of the entire School Fund; but then it would be divided amongst the whole 9,000. Now, if it is to be divided, or rather, if it ought to be divided, what matters it whether we all go to drink out of the same dish, or whether it be divided into smaller parcels, to suit the tastes the interests, and the wishes, of those to whom it belongs?

Again: You go into the country, you take a population of a school district where, say, there are seventy-five children. Now, let us see how it would operate there. Your common school is already established; it has the advance; it has its schoolhouse built. Suppose a private individual at the instance of parents, starts another school upon his own account. Suppose that fifty of the

seventy-five children leave the public school and attend this free school established under this act. You may say it will break up the other school. Perhaps it will; but if it does not meet with the approbation of those whose children are to be educated, ought it not to be broken up? Is it not better that the school should stand which is agreeable to fifty pupils and their parents, than that which is agreeable to only twenty-five and their parents?

Sir, there is but one means by which the proposed system can interfere with the present system, and that is by competition. Now I believe in competition in all things. But how unequally do these competitors start out in the race! Why, sir, the present common school system starts out with buildings already erected of the value nearly half a million of dollars. The common school sets out already fully organized, with officers all elected. The public school system sets out far in advance; and it is proposed now—what? Not to break up that system by act of law; not to abolish the system by virtue of this bill; but to plant another system alongside of the one which already exists; to plant a free system, one which places the care of the education of children in the hands of parents—to plant that alongside of the sturdy oak of the present system of common schools. Now I submit this: If the system proposed is inferior to the one already established, would it not go down in the competition? Let the common school be maintained, if the people like it better. But if they prefer the system which it is proposed to establish, if that meets with the most favor in the eyes of the public, then a competition is created between the free school proposed by this bill and the common school now in existence. The former may draw the pupils who now attend the latter class of schools, and there is all the fear and all the difficulty with regard to this bill. But, let me tell you, that if any system cannot stand on its own merits, it ought not to stand with the support of the law.

The subject is one full of importance, and interest to us. We are now making the foundations of a government. We are now starting out in our career as a people, and a nation; and it is all important that we should start right. It is all important that we should come up to this work with an eye single to the welfare of posterity. I know that the howlers of the press will cry "bigot," and "sectarian," at me. But I have learned to despise calumny, come from what source it may. I have been told that my advocacy of this measure is to be my political grave. If that prediction be true, I only have to regret that I am not worthy of so honorable a tomb; for I believe that the green sod grows not upon the grave of a hero who died battling for a nobler cause than that for which I am now appealing to you. Sir, Sacramento has acted wisely in time gone by. Profiting by experience, she has taken the precaution of erecting a levee round her entire limits for the purpose of turning aside the turbid waters as they sweep down from our mountain heights, and flood our valleys. Let us profit by her example. There is a torrent far more turbid, and far more pestilential than that which is now flooding our valleys, and threatening to inundate our capital city. It is the torrent of vice, of immorality, and crime. Its sources are to be found in Europe, in Asia, and America; in the prison

walls of London, of Paris, and of New York. From a hundred thousand streams there is pouring in upon us a flood of crime, and turpitude, such as never cursed a people since the world began. And if we would act wisely it is high time for us to begin the work of building around ourselves, and around our posterity, a moral levee that will protect both ourselves, and them, from the poisonous waters of crime, and iniquity.

Sir, in the course of my remarks I have endeavored to confine myself to the point at issue. I have endeavored to touch the prejudices of no one, and if I have been so unfortunate as to have wounded the feelings of any, all I have to say is that I ask his pardon. I have been actuated by a sincere motive—to promote what I regard as the most important cause that ever engaged the attention of a deliberative body.

S P E E C H

OF
[Caleb]

JUDGE BURBANK,

IN THE

SENATE OF CALIFORNIA,

FEBRUARY 27, 1861,

ON THE

CRITTENDEN COMPROMISE RESOLUTIONS.



SACRAMENTO:

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S P E E C H .

MR. PRESIDENT: I have thus far, sir, listened to the arguments upon these resolutions, with a great deal of interest, and with but very little pride. With interest, sir, because our common country is the controlling theme; with very little pride, because it is supposed that the present condition of the country requires the adoption of all the provisions and principles contained in these resolutions. I have read them carefully. I have endeavored to consider them candidly, and when I am called upon to vote for or against their adoption, I will vote according to the result of my own judgment, and whether that be given in wisdom or in error, it shall be my satisfaction to be able to say, and say truthfully, that I voted as my judgment and my duty dictated to me. Whatever we say on this floor as Senators, speaking for ourselves and for the people of the State of California, should be said in good faith, and whatever is said not in good faith, is unworthy of this Hall, unworthy of ourselves and of our constituency.

I hope, sir, we have come here for the promotion of good purposes, sound policies and vital and substantial principles. I hope we do not assemble here from day to day to foster our passions and inflame our prejudices. The State does not call upon us for the pitiable exhibition of prejudice, passion, hatred, or revenge. But the State does call, and call loudly upon us to speak and act with prudence, with wisdom and with firmness.

These resolutions have for a long time been under discussion, and in this discussion, Senators have taken a wide range—so wide, sir, that at times no one but the Senator on the floor could tell what the orator's theme really was. One day the split in the Democratic party is discussed with thrilling interest; again, we hear of the remedy to cure the disease, which seems to be wasting and dwindling down both wings of the party. Each Senator upon this branch of the subject has been victorious, has killed his antagonist and mortally wounded himself. When, sir, for so many days, we have been driven about by storm and tempest under a cloudy sky, and upon troubled waters, it would be prudent, indeed, to look steadily and ascertain, if possible, where we are and how we stand. If it is true, sir, as Senators tell us upon this floor, that there is no American Union, that it is entirely broken up and dissolved, I would ask such Senators to tell me what necessity there is for considering the resolutions before this Senate? Is it good sense to consider them if there is no Union?

MR. THORNTON—If the gentleman will allow me, I will explain my position upon that point.

MR. BURBANK—With pleasure.

MR. THORNTON—I think that certain States have withdrawn from the Federal Union and are no longer members of it, but I think that Union still exists over and among the States, which are parties to it, and have not withdrawn.

Mr. BURBANK—I so understood the Senator before he explained. What he said on a former occasion on this point was perfectly clear; there was no misunderstanding him, and if I cannot give him credit for his soundness, I will give him the credit of showing most clearly the full deformity of his proposition. I will never intentionally misinterpret any Senator's position. All I can ask of the Senator, is this, that after he has made his bed to suit himself, he should attribute his want of rest to the *making* of the bed. And, sir, if he shall ever sleep soundly on that bed of secession, it will be by reason of great fatigue or under the influence of powerful narcotics. [Loud applause.] I understand the Senator that the American Union is broken—and, sir, if it is broken, it is no longer a Union. What was a Union *once*, is a disunion *now*.

Mr. THORNTON—Not a complete Union.

Mr. BURBANK—It is a Union, or it is not a Union. No proposition can be more clear than that. I hold the gentleman to his word and his explanation. He says by way of explanation that the Union is not a complete Union, and the reason he gives for this position, is simply that it is incomplete *because* it is broken. This is certainly logical. I find no fault with the logic. If his logic could breathe the breath of life into his proposition, and could give to his position solidity and constitutional vitality, he would be as famed for logic as disunion is famed for the evils it will produce. Now, sir, if the Senator contends that these resolutions are calculated to affect people outside of the Union—and if this be true, they are intended to reach a foreign people, whose ensign of nationality is not the stars and stripes—it would be an unusual thing to discuss such resolutions in our Government, where the foreign Government has no voice or hearing in the discussion. Such discussion in this Senate would be a disgrace. But if the resolutions are intended to affect those persons only who are in the Union, who love the Union and do not mean to go out of it, then the discussion would not be entitled even to the dignity of respectable nonsense. Sir, I take a different ground. In my judgment, we, the people, the whole people, now have, this day, a Constitution and a Union, embracing thirty-four States, and that the Union now existing is as entire and complete this day, and this hour, as it was ten years ago. [Immense applause.] Star after star is added, and other stars will be added to the glorious galaxy of stars, until the American people shall forget their reason, and American patriotism shall give place to treason. [Applause.] Proud America, happy America, land of the brave and home of the free, may the God of nations smile upon you in time to come, and may thy blessings be extended to unborn millions, whose hearts and whose voices shall be true to the Constitution, true to the Union, true to their noble progenitors, true to themselves, and true to their posterity. [Immense applause.]

Sir, I am willing to admit all that is true. I admit that the *administration* of our Government has been in bad hands for the last four years. A feeble Executive, surrounded by ambitious and unscrupulous partisans, has brought disgrace upon the American people. I admit, with deep mortification, the probability that treason was whispered with seductive lips in the very Cabinet of our country—and that, too, when unparalleled blessings, as varied as human wants, and as copious as the fulness of rational desires, were multiplied upon this the happiest nation on the globe. [Applause.] I admit the probability that the Chief Executive, standing in the proudest position to which national confidence and national partiality can elevate a man, did listen to the seductive whisperings of treason. I cannot doubt that what was at first but the softest whisper, was at length raised to an outspoken and potent voice. I cannot doubt that certain portions of the country were apprised of this easy access to the Executive. Muniments of war and implements of bloodshed and death were purchased and carried South, in large quantities, for six months

before the November election. Sir, what a spectacle was presented to the American people! Citizens in a certain portion of our Union, in the election of a Chief Magistrate, go to the polls with a vote in one hand and a traitor's sword in the other. Sir, I believe that the idea of a Southern Republic was considered long ago. It was conceived in political sin, and was to have been born in treasonable iniquity. Under no other administration than the feeble and vassilating administration of James Buchanan, would any man or any party have dared to carry out such an unhallowed purpose? He was elected because his Southern supporters had a just appreciation of the man. They were not mistaken in their man. But Northern Democracy was mistaken. Northern Democracy, however, in 1856, as they had often done before, yielded to the demands of Southern dictation, and Mr. Buchanan was nominated and elected. They loudly called him the very model of patriotism, and upon that pretext urged his election. Oh, patriotism! how much political iniquity has been perpetrated in thy name. [Innense applause.] Oh treason, how plausible and how cunning thou hast been. Under the very banner of patriotism, you would stab liberty to the heart. Sir, it is my honest conviction that the elevation of Mr. Buchanan was intended to make room, to make preparation for a Southern Republic. His election was to be the convenient passport to treason's holiday. But, thank God, the people will administer a just rebuke. The Constitution will stand and the Union shall be preserved. [Great applause.] Yes, sir, gau-grené patriotism, blind and seductive divinity, gin-ecktail politicians and mint-julip statesmen will find their mistake. They will find that when they secretly and cunningly and wickedly devised their political feast, they were really preparing for their own political funeral. And, sir, let the dead bury *their* dead—the Union must and shall be preserved. [Great applause.] Mr. Buchanan did listen, as circumstances did show, until he was awakened from his delusion by the thunder tones of the people's indignation. Then it was that his eyes were opened; then it was that he saw and trembled; then it was that his knees smote together like the knees of Belshazzar; then it was he turned his face to the Constitution and the Union; and then it was that his seducers turned their faces against him and howled their defiance to his power. The historian will record these pitiable facts, and every page that shall record these acts will be black with political infidelity and the foul stains of treason. Sir, I have already said that I denied that there was disunion or secession. I have asserted that the Union still lives to bless a nation of freemen. [Applause.] But, sir, if any Senator shall say that the present Administration, and what has been allowed to spring up under its weakness, has given a shock to the Constitution and the Union, I admit it all, I deplore it all, I repudiate it all, I condemn the acts and spurn the actors. [Applause.] If Senators are of opinion that these resolutions should be passed and sent abroad into a foreign Government—a Southern Confederacy—to make them effectual there in that foreign Government, let them have the glory of advocating such resolutions for such a purpose. I, sir, claim no share. I, sir, should deem my glory in that my lasting shame. [Applause.] If it is intended that these resolutions, when passed, shall be sent to South Carolina, or to any other State where treason and rebellion are running riot over the Constitution and laws of the land, to learn what they think of these resolutions, to learn what treason may or may not adopt, to learn whether rebellion and treason are for a reconstruction of a Government which they repudiate and contemptuously defy, to see whether such a people desire a better Constitution than that which Washington helped construct; if this is the purpose of these resolutions, I, sir, will wash my hands from the disgrace of their passage. I will not be a participator in such febleness and such folly. [Great applause.]

Sir, if Senators come here to say to the people or to the Senate, or to the Presi-

dent of the Senate, that there are certain transactions in some portions of our common country of such a character that we dare not think of them, that our watchword must be *hush, be still*, because if we speak out boldly the perpetrators of evil may be enraged and may do more iniquity—I am not the man to join in this cowardly, shrinking policy. I am not the man who will even adopt a policy which shall pay tribute to treason to stop its ravages. I will call things by their right names. I am not afraid to do this on this floor or elsewhere, to tell the country the whole truth, black as it is, wicked as it is, vile as it is.

I, sir, will not deny the truth or tell a lie even for peace. [Applause.] I want no peace purchased at so much sacrifice. Sir, if we cannot maintain our position as a Government by stating the facts, taking the law and going by it and applying the law to the facts, if we cannot do that, how much pride is there in such a Government as that? How much security is there in a Government that has not force in it? How much respect to such a Government at home or abroad? Not any, sir. It would be but a Government on paper, and not worth the paper it incumbered. A Government is a reality; the written words of the Constitution describe and limit and define that reality, that existence. Sir, Senators tell us that the Constitution has the authority and that it is a good Constitution, that it is the supreme law of the land, it is the organic law of this American nation. No Senator denies this, nor does he deny that by that supreme law armies and navies are provided. Nor does he deny that power is given by the people to that Government which is the people's Government. When Senators, here on this floor, in their dignified position, either assert by words or admit by implication that treason may run riot over any acre of ground that is American soil, and should not be resisted or rebuked, let them have the glory of such a position and the honor of such policy. [Applause.] I, sir, will have neither. I spurn them both. [Great applause.]

When Senators argue, let them argue fairly and properly. Let them not deceive themselves when they speak of coercion, let them define their meaning, let no error smother the sentiment of the people of California. Sir, the cry against coercion is heard all about us. In some localities that cry has become, by age and fodder, a frightful howl, and it is such fodder as neat cattle will not feed on; jackasses may live on it, but soon they will grow weak and lean. [Immense cheering.] Certain politicians press the complaint against anticipated coercion. They have fabricated a kind of coercion, which is a perfect monster, and then ask the people to kill that monster! Whose monster? It is your monster—it is one that you have built by the job, and there is not a particle of honest custom work in that monster. [Applause.] When that monster, coercion, that you have built, shall be cut open, shall be dissected, you will find infidelity in every joint. It is a monster that feeds upon corruption, swallows down treason, and swells out in grand dimensions by feasting on cactus and grizzly bear flags, palmetto ensigns and fillibustering patriotism. [Applause.] Sir, the Government of the United States of America has raised no such animal as that. That animal is *monstrum horrendum informe ingens cui lumin ademptum*. Is it proposed by any party in this Government—by the Democratic party, by the Breckinridge party, by the Douglas party, or by the Republican party—to make war against any State in this Union? No, sir; there are at this moment thirty-four States in this Union, all prosperous and happy, if they would be. No party proposes to make war against any of these States in this sisterhood of States. No body is yet foolhardy enough to entertain such a silly proposition as that. Coercion and war are terms that should not be misunderstood. They should not be confounded with the terms of punishment and accountability—by no means. [Applause.] Does any body attempt to make war or wage war against a criminal in this State? A process is issued against such and for what? To bring the crim-

inal to justice. Has any part of Marin county seceded? [Laughter.] Does any portion of Marin county say that she does not like the form and operation of the Government of the State of California, and that she will look to us for terms of conciliation? I have understood that there is some such talk there. [Applause.]

Not, however, on the ground of right or propriety, but simply on the ground that such conciliation has become fashionable—that such custom has been inaugurated in 1861. [Immense applause.] I don't know how true it is, but if it is true, I think I could select a suitable plenipotentiary to send there to negotiate, to conciliate, with special instructions not to intimidate—with very special instructions not to intimate that we even suspect them of crime or error, because that would ruin the purposes of the mission. [Cheering.] Let the plenipotentiary be instructed to say to those gentlemen in Marin, that this Government is friendly to them, and that the reason of friendly feelings is that we really approve of their conduct and would emulate their example. I think I could point out a number of suitable men for such a mission. Mr. President, I would inquire of the Clerk of this Senate, through you, sir, if there be any resolution now on his desk for any such end and purpose? [Laughter.] Sir, no war is proclaimed or intended by this Government. Nobody wants war. There is, indeed, insubordination in one portion of the Union. We all know what that insubordination is. We know its cause and its character. We know what name belongs to that insubordination. It is treason. Perhaps these acts which make the treason are sanctioned by Senators who contend that the United States Government, owning certain property, certain forts, could be deprived of such property when the people of a State in which such property may be, see fit to rise up and take it, and the Senator from Santa Cruz (Mr. Watson), says amen. Sir, recreant and disloyal men are this day in defiance of our General Government, seizing and holding forts on the Mississippi, and aiming the guns of these forts at the merchant vessels as they are moving in peace on that highway of commerce. And yet the Senator in substance says to treason, *he* does not object—he commends, he negotiates, he conciliates. Yes, conciliates! And how? Why, sir, so that the same acts may be repeated at will. You extend to them this invitation. Do what you will, you men of South Carolina and you men of Louisiana—fire at our vessels, sink our ships, intimidate our seamen, defy the Government that protects the houses over your heads, and you shall have the guarantee of the Senator of Santa Cruz that no force of this Government shall ever be applied to restrain you from the free commission of these treasonable acts. If that is the sentiment of this Senate, pass the resolutions, and go before the people of your State and defend your acts. Be your own advocates—be your own witnesses—and I will be there, and I will fasten this stigma upon you. By this act you turn against your Government. You show ingratitude and infidelity to the Constitution you have sworn to support. Sir, I tell the Senators I will meet them in the battle that is to be fought. I will fight you in the mountains, I will fight you on the plains, I will fight you on the sea, I will fight you on the shore, I will fight you in the morning, I will fight you at high noon, I will fight you at the setting sun, I'll fight you till I die. [Great applause.] I mean politically—I do not mean to use powder or bullets, or sharpened steel. I will fight with something more destructive, more fatal to you; I will throw your conduct into you face, I will scatter the burning bolts of a people's indignation into your ranks and you shall count the slaughter. [Applause.] And when the smoke of battle shall have passed away let your dead bury your dead—there will be none of them living to do such kind offices.

Sir, one Senator has talked loudly about the success of a particular party next Fall. Such a theme as that may satisfy the patriotism of that Senator. It may be sufficient for his party. When he says that the Breckinridge party must prevail

upon certain principles, and they must do certain things and must elect certain men to come here, so that the mountains shall speak to the sea and the valleys speak to the mountains—all that on the question before us must be magnanimous! This, perhaps, is worthy of a mere politician; but in my judgment it is unworthy of a statesman. It is not fit to be said in a Senate. There is but one place that can rightfully claim it. There is one place where there is yet a place for it, even in these momentous times. That place is the political cesspool of criminal disloyalty and constitutional infidelity. [Great applause.]

Now, Mr. President, I suppose that the Crittenden Resolutions were intended by their author for a good purpose, and before I speak of the high character of Mr. Crittenden I will speak of his geographical position. He is of a border slave State, and though a gallant State, still it has affinities with South Carolina. He has on the one hand the whole North with twenty millions of people, true to the Union, men who live in obedience to the Constitution and intend to do so. On the other, he has the treasonable Southern States; and I would ask if even he, in that position, can be entirely free from influences that affect other men? I connect his acts with his position, and this is fair and right. These resolutions emanated from a man who has boldly battled with the storms of life. Whether he differed from the old Whig party or not, whether he differs from the Republican party or not, he is a bold man and intends to be right and just. When a man asks me if John J. Crittenden is a true man, I answer, aye, every time. When he penned these resolutions he intended them for a good purpose, notwithstanding, I, humble as I am, may not entirely agree with him. But, sir, little did John J. Crittenden suppose when he wrote those resolutions that any advocate of them would stand up and say this Union is dissolved, that there is now no American Union, and no stars and stripes to represent the dignity and honor and power and glory of our American nation. Do you suppose that he would have written them if he had supposed they needed such an advocate? No, sir; never, never! [Applause.]

Mr. Crittenden wrote these resolutions with this idea, that we, the United States of America, being composed of thirty-four States, and not one less, are the component parts, and the dignified parts which altogether make one whole, and that whole is the sisterhood of States, and that sisterhood is the American Union, never to be broken, never to be dishonored. [Immense applause.] That was the grand and controlling idea in his mind; and by these resolutions he proposes to relieve certain parties of disaffected citizens from the suspicions they entertain as to future effects and results that are feared from future administrations of the Government upon certain species of property. Now, sir, is it not surprising that we are compelled to listen to arguments upon these resolutions, to show that there is no Union to save; only a Union to be sought, to be negotiated for, between dissolved States, under the walls of a shattered Capitol? Certain Senators propose, or speak as though they proposed to negotiate with some foreign Government, formerly belonging to the stars and stripes, to see if such foreign Government could not be induced to rejoin the United States Government, whose Capitol is supposed to be at Washington. Is that it? Is that it? If that is so, if that is the idea, how much power, how much force, how much validity or vitality, how much sense, how much *good nonsense even* would there be in such an advocacy of these resolutions at this time? I will turn away from those gentlemen who assert that we have not a Union. Let them tell the American people that the stars and stripes have no right to float in the breeze from the National Capitol, no right to float at the mastsheads of our ships, indicating our Union, indicating the power in that Union, extending over thirty-four States. They may try this position and I will turn from them. They may speak these things to the people and the people will also turn from them. I

envy not the man who can look on and see what treason seeks to do, and not burn with indignation in his very heart of hearts. .

Proud and happy millions of American freemen, not yet pushed, not yet driven to the humiliating necessity of shaking hands with treason to maintain freedom; not yet driven, thank God, to furnish such a sad commentary on patriotism. By the blessings of an all-wise Providence you still have the glorious Union which has made you the praise of the world and the hope of mankind. Your Union is a great national mirror, into which all the sons of men throughout the civilized world may gaze with delight. In that great mirror they behold the wisdom of patriots and sages, statesmen and philosophers. In that they see the wisdom and symmetry and perfection of the best government ever produced by human sagacity, aided by the most lofty patriotism; in that they behold with admiration the practical workings of that plan of government which has convinced the world of the truth of the great problem of self-government. [Immense applause.] Into this great and gorgeous mirror millions have looked and are still looking, with undiminished delight and with undiminished hope and confidence. These thirty-four States, with harmony and beauty, with their happy millions in their bosoms, revolving round one common center, and all moving onward and upward as if to reach a higher perfection and a still nobler destiny, nearer to Heaven and to perfect happiness—these, all these, make the American Union. All this you now have, and will you not hold it? Will you not prove yourselves superior to prejudice, superior to party spirit, and superior to infidelity and treason? I think I hear the whispers from a million lips, "We will! We will!" [Immense applause.]

Mr. President, what American patriot is now quite willing to see such a mirror dashed into fragments? Who is quite willing that the glory of the past, the pride of the present and the hope of the future, shall be but a dashed mirror? Look down upon the broken fragments of what was and is not. Take up that piece that was once a State in the Union, protected on the sea and the land from foes from without and from foes from within by the controlling, united power of all the States; but now solitary, now helpless, now hopeless, now the sport of chance, now soon to be the victim of its own folly; now no longer independent, but, on the contrary, poor, weak, dependent and desponding; now assailed, now in strife, now overpowered, now subdued. But *now* no stars and stripes to be invoked, *now* no America to look to for protection against the crushing power of the invader. Look you upon the fragments and tell me if you are quite ready to see that great mirror dashed into fragments? [Applause.]

Oh, what delusion, to talk of disunion! Oh, what delusion, to suppose that the American freemen are willing to compromise with treason, because treason may be more mad. Other men may make the compromise and other men may shave the honor. But as for me, I will be no party to a compromise which is to be signed by turns, when now the patriot holds the pen and now the traitor, now the defender of the Constitution and now its enemy. Will ever I sign my name in that way? No, sir. When I do, may my right arm, the gift of God, fall from my shoulder; and my tongue, which is the gift of God, cleave to the roof of my mouth. [Applause.]

Sir, men may talk disunion as they may; they may try to inspire a love for bear flags, and cactus flags, and palmetto flags; they may talk about a Southern Republic and a Pacific Republic, representing anything you please; but let me tell such men, and let me press upon them the fact, that they little understand the great heart of the people of California, which will always beat true to the Union. [Applause.] No, this State will never be seduced from her interest and her honor by the hypocritical pretexts of rose-water patriots and bear flag statesmen. [Applauso.]

This State will always be true to the Union, as long as she is true to her own interest and happiness. Gallant California, while the earth bears a plant or the sea rolls a wave, you will always respond with cheers and acclamations to that glorious sentiment of American patriotism—"Liberty and Union, now and forever, one and inseparable." [Deafening applause.]

Sir, if I was mad enough to believe in bear flags, prudence and policy would lead me to withhold such belief and chain it in my own narrow soul. Should I proclaim such a sentiment to the people of this State, my friends would immediately institute an examination, to learn which institution I should belong to—the Senate Chamber in Sacramento, or the Insane Asylum at Stockton; and the result would show that my immediate removal was the only alternative. [Laughter.] And why? Because my insanity would be the controlling trait in my character.

Gentlemen may differ from me. It is their right to do so. If I had the power to compel every member of this Senate to vote in a particular way, against their convictions, I would scorn to exercise that power. What is right or wrong is a matter of judgment with each of us, and each must determine for himself. When I assert that this Government is to be upheld by reason and judgment, and that it looks for no support from the passions and prejudices of biassed and jaundiced and ambitious politicians, I assert what is apparent to the most superficial observer. I assert what is a deep reality in the mind of the statesman. This Government, for its support, looks to no party prejudices, to no party passions. Sir, we have been forced to try the influences of these most ruinous elements for the last four years—nay, for eight years—and the humiliating trial has brought about just the state of things you see. The people of this country feel the calamity, they know it to their sorrow. It is not for the politicians that we should feel a solicitude. It is not the ambitious aspirants that claim our consideration when we are engaged upon questions of national prosperity and national stability. It should be borne in mind that this great Government of ours this day embraces one million, at least, of families, firesides and homes. For these be our solicitude, for these be our care. We are but poorly employed to look out a position for Mr. Lincoln, or Mr. Seward, or Mr. Douglas, or any other man. We are but poor statesmen when we sink so low as to provide ways and means by which one party can be made great and another party made small. This is the work for moon-struck politicians and mushroom statesmen. The Senator from Santa Cruz tells us that his glory consists in the destruction of the Black Republican party. If that Senator waits for glory till it comes that way, I notify him that he has a long time to wait. [Great applause.] I don't know what school he was brought up in, I never will inquire. [Laughter.] I never heard, only from him (good evidence), where he came from—that Georgia produced him. [Applause.]

Mr. WATSON—I inform the gentleman that I did not come from Ethiopia.

Mr. BURBANK—I accept the information. [Laughter.] I am willing that it should be understood that he did not come from Congo. I am also willing that he found it necessary to make the declaration in public. [Applause and great laughter.] I am willing he should profit by it; no doubt he will. [Laughter.] Sir, when the inquiry comes to be made, in high places or in low places, whether the Senator was born in the Congo of Africa or the Congo of America (Georgia), then the Senator will reap the benefit of his timely declaration. [Immense cheering and laughter.] And if the Senator hereafter, in the course of human or inhuman events, finds it for his advantage to hail from the Congo of Africa, rather than the Congo of America, I will not be so unkind as to dispute him. [Irrepressible laughter.]

Mr. President, I did not rise to make an argument to do away with the argument of the Senator. I hope it will be a long way ahead when I shall be driven to such a necessity. If I had been called upon to decide the force of the argument of that

Senator, I would have answered as a lawyer in Court once did. The counsel for one party argued long and loud, hour after hour; he sweat, he fumed, he used all sorts of hard names, he spoke of everything but his cause—that he had omitted altogether—and when he sat down in a triumphant way, as much as to say, “Did anybody ever hear or see the like of that?” the opposite counsel rose, slowly and pleasantly, and said: “May it please your Honor, as the opposite counsel has seen fit to submit the cause *without* argument, I will also submit the case without argument,” and he sat down. The jury decided for the plaintiff without leaving their seats. [Applause.]

One word more, Mr. President, to relieve the honorable Senator from his fears, and to relieve such people as he represents from their fears also. The Senator, when he addressed the Senate, the other day, told us that there was something in this Government which he did not explain. But he gave us his idea of the present condition of the country; and his language on the occasion was classical and his manner very winning—my poor effort will not imitate either—and he said that this Government *was all ripped up*, all dissolved; that some stood on one plank and some on another, and they were all in some bay or on some ocean, and we were bobbed up and down. [Laughter.] That is his idea of our present national condition, and his argument was nearly equal to his idea. They both stand unrivaled for beauty and unequalled in power. [Laughter.] I had occasion to remark, the other day, upon this floor, that the Senator’s heart was not bad; that the difficulty was in his head. I then supposed that when all his difficulties had been or should be removed from his head, and committed to paper, he would be all right. After he made his speech I looked at the reported speech. After having the pleasure of listening to his speech, when he so much interested us, and upon looking at and considering the contents of it—the crooks, the corners, the zig-zags, the errors, the fustian, the foam, the fever, the almost everything that would bring on headache and sickness in the head and dizziness—I say, sir, when I saw all this on paper, and knew that all that came from his head, I was ready to say that his head must now feel entirely relieved, and that hereafter he would be as pure as the icicle that hangs on Diana’s temple. [Great laughter.] But let me tell that Senator, in all soberness, that we are not in the national condition that he supposes we are. It is undoubtedly true that the people of some parts of the Union call themselves out of the Union. But they are not out; they are better off than they pretend to be. The fears of that Senator, and the fears of all who have fears at that time, may be dismissed, may be laid aside. I say be not alarmed—be not frightened.

Sir, in a few days—in four or five days—there will not only be a Government in this country, but there will be an administration of this Government, and that administration will be carried forward with honesty, with dignity, with kindness, and with that degree of stability and firmness that shall give credit to the Government and confidence to the people. It will be administered with this controlling idea—that this Government was instituted for the benefit of the whole people, and that it cannot be properly administered with any different view. This incoming administration never will ask the Senator from Santa Cruz to give an exposition of what is to come, or of what will take place in relation to the Republican party. The Senator may yet be appointed to some high position. I don’t know but Mr. Lincoln will see his speech; he may hear of it and be fascinated by it, and the Senator himself may go to bed without an office at night and wake up in the morning and find himself a high Government official under Mr. Lincoln. [Applause.]

Mr. President, I will allude to what the policy of the Republican administration will be. It will be not to kill, but to make alive. It will not be to destroy men and to destroy the Union, but it will be to build up the people in their interests, in

their families, and in the upholding of this Government and this Union. If it has been said by some mere party croakers, by some evanescent politicians (I mean no disrespect to Senators), that the Republican party intend to rule for the benefit of a party alone, I assert that there is no evidence for such a statement. Such uncalled for, unsustained prediction is but moonshine and fustian. The incoming administration is intended, is designed for the good of the whole country, for its dignity, its security, its interests and its glory.

Sir, that administration has been condemned in advance. When condemnation is the result of candor and judgment, it is then of some import; but when it is the result of passion and prejudice, it is entitled to but little weight, and has, in fact, but small significance. But I do not wonder at anything I hear from a certain quarter. Let us look at the outgoing administration—the Breckinridge men and the Douglas men, indeed, to all who fought against the Republican party. What have all these men done for the last four years? Four years ago they found a full Treasury, and they are about leaving an empty Treasury. They found a united and happy country and the millions of people satisfied with our Government and our Union; they have created discontent, disunion, nullification, secession, treason and rebellion. They found our Government respected at home and honored abroad; they present to us the same Government without respect at home and without honor abroad. All this they have done, and they, with shameless faces and with arrogant assumption, now say that they are the only leaders fit to govern a free people. Oh, shame, where is thy blush! [Applause.]

But, sir, there is something more that they have done. They have left their tracks behind them, and they dread an investigation. They know full well that the causes which have brought a great nation to the verge of ruin in so short a time must be looked into. They feel this, and in their frenzy and in their shame and in their guilt they prefer dissolution rather than exposure. They dread an honest administration. They dread an investigation. They dread the burning indignation of an outraged and insulted people. No wonder that they exclaim in advance that the incoming administration should be suspected. They wish to prepare the public mind to disbelieve what must come to light. They know full well that the whole exposition would sink them into infamy and scorn. No wonder that such persistent resistance to an honest incoming administration should be exhibited. The nature of this opposition is revolting. Sir, the reckless character of the present administration and its advisers foreshadowed the opposition. In the first place, every energy was brought to bear to defeat the election of Mr. Lincoln; but the people overruled it all; he was elected. What do we hear next, in a free Government? That the Union should be dissolved before the 4th of March, 1861. Dissolution was then the cry in one section of the country, and in another section the response was amen—that every State had the just right to secede when she pleased. Then, again, our forts were seized by the opposition, our vessels fired into, treason and rebellion stalked abroad in the land at noonday. What next falls upon the startled ear of the American people? Why, that the President elect should be assassinated before he reached the Capitol. And all this under the stars and stripes, while they floated from the national Capitol. Again, we hear that insurgent armies will surround the Capitol with bristling steel and burnished sabres, to strike down the choice of a free people when he should attempt to take his oath as the Chief Executive of thirty millions of American freemen. All this have we seen while yet a Democratic President is still in the Presidential chair. All this have we witnessed. All this has sent a thrill of indignation through the civilized world; and yet Democrats say that they are afraid that the incoming administration will not come up to that standard of dignity and patriotism that they so much desire. [Laughter.] Democrats!! did

the world ever witness a parallel to this? Your impudence and presumption are only equalled by your infamy and perfidy. Your disloyalty is so daring, so high handed, that it almost challenges your own credulity. It will take another generation to comprehend the full measure of you unparalleled, high handed, un-American treachery and infidelity. [Sensation.]

Sir, the pages of history that shall record the doings of this administration will smoke with burning disgrace. They will be read with scorn and indignation. Generations yet to come will wonder how all these iniquities could have been perpetrated in a free Government of intelligent Americans. They will be more astonished at the record than we who live amid these scenes of humiliating insubordination and ruin. What we have seen has had its influence upon the public mind. Fear has seized upon some, despair has settled upon others, and some are even led to doubt the success of self-government.

But, Mr. President, while thousands have admired the wisdom of the founders of this government, few comprehend that wisdom, and *fewer yet* are fully able to fathom the depth and foresight of the great minds that framed our Constitution. Sir, that Constitution, up to this time, has withstood the storms and tempests that threatened its overthrow, and like a gallant ship she has triumphed over the howling tempests above and the angry billows beneath; and such triumph has given greater confidence in its wisdom and perpetuity, and it only remains for a still greater triumph to give unlimited confidence in that masterpiece of human wisdom. [Applause.]

Sir, we have witnessed the crowning assault; we have felt the crowning shock; and by the blessing of God, we are bound to hail the crowning triumph of that Constitution. So deep rooted in the hearts and affections and confidence of the American people is that sacred instrument, that the storms of passion, the tempests of party strife, the assaults of wreckless ambition and the surges of treason, shall not prevail against it. It still stands lifting itself proudly and majestically above the power of the elements. Our flag will still wave in triumph and glory on the land and on the sea, the pride of a nation, the admiration of mankind. [Great applause.]

Mr. President, some things are laughable, while other things are sublimely ridiculous. The Senator from Santa Cruz points his finger at the Senator from Yuba, and says, "You love the Republicans;" and then, with extraordinary emphasis, he adds, "I charge it upon you, sir!" Good sense that, ain't it? [Laughter.] You might as well *charge* a man with integrity, honor, and patriotism, and then try to fasten it upon him as a disgrace. [Applause.] You might as well attempt to stigmatize him by charging him with being true to the Constitution and the Union. And suppose you make that stigma stick to his character, how much will you harm him in the estimation of good men? [Laughter.]

I do not ask any man to join the Republican ranks; I do not advise any man to keep away. Sir, the Republican ranks are open to all men who have any just claim to patriotism, fidelity, humanity, and that respect which every good citizen is entitled to. To all such, we say, Come! be good citizens, be good men, be good fathers, and with us make common cause in building up our common country. Be Republicans! [Applause.]

It should not be supposed that I am vindictive to the Senator from Santa Cruz. I am not. I have often spoken in his favor (may I be forgiven). I will do better for him than he does for himself. [Laughter.] I am treating him as Ichabod treated his brother Jonathan. They had a difference that grew into a difficulty, and was provoked into collision; hot words were followed by a trial of strength. Ichabod took Jonathan down, and showed him his regard by some heavy demonstrations.

Jonathan complained. But, said Ichabod, "Bear it with patience, Jonathan, every blow I give you is for your good." [Great applause.]

Sir, we are told that the principle object of these resolutions is to bring together the two wings of the Democratic party. I do not care what fusion they make, or what fuss they make; I don't care whether that old Democratic goose has two wings or one, or none; I don't care whether that goose, that is almost dead, has a head or tail, or neither; I don't care whether she flies or goes on foot; it is all the same to me; I care not for the goose or the goslings; I have no interest in any such stock. [Laughter.] Whilst your deepest concern is for that old goose, picked and tattered as she is, the Republicans are looking out for the stars and stripes, the Government, its administration, the Union and the blessings which that Union is calculated to secure. Sir, if there is anything in those resolutions, coming from the source they do, that ought to be passed for the good of the country, I am one of the men who will dismiss all party considerations, and consider them honestly, frankly and truly. But there is one other thing I must say, and I am bound to say it, and I might as well say it *now* and *here*. I shall speak of the Senator from Sacramento (Mr. Clark), after he has made such a truly patriotic speech as he has this day made here. I am inclined to praise him, but I scarcely dare to do it in the presence of the Senator from Santa Cruz; for if I should say a word in favor of Mr. Clark, Mr. Watson would rise to his full height, and look daggers, and exclaim: See that! Did you ever see anything like that? The Senator from San Francisco is praising the Senator from Sacramento! Wonderful! [Laughter.]

Sir, no Senator can intimidate me. I am proof against fear. Danger and I were rocked in the same cradle and grew up side by side, and I was always his master. When danger speaks to me he only speaks for a compromise, and yields to my own terms. [Laughter.] But I am not so brave as to forget my position; I hope I am not so brave as to forget that dignity which belongs to this Senate; and I do say that Senator Clark, whether he come from the North or the South, so long as he breathes the sentiment that he has this day uttered, stands on the right ground. He is for the Union and for the supremacy of the laws of the land. [Applause.] He says, in substance, that it will be a long time before he will say that this Government is so weak and feeble that it cannot stand forth in its dignity and power and say to treason "Hush, be still!" Sir, I assert that I am not the man to be gagged down here or elsewhere. When I know that treason is rising up in the land to destroy liberty itself, I will not stand still, I will meet it, I will confront it, I will condemn it loudly, I will defy it, I will defend the country I love against every enemy, whether he comes from abroad or rises in our midst. If liberty and peace and harmony and life and country are worth having, they are worth defending. [Applause.] I do not know how others feel, but as for me I envy the position of him who is called upon to stand between his country and his country's foe. A brave man in a good cause has a proud position. When in defense of Government and country and houses and families, he has no fear; it matters not who the foe may be. He regards his own life but a drop in the ocean, compared with the magnitude of the cause. He feels that the death of a patriot on the field is but a passport to his country's gratitude. He knows that such a death is but a rich legacy to his wife and his children, richer than gold and lasting as time.

Sir, some of the Senators on this floor undertake to treat the Government of the United States as a something separate and distinct from the people. They seem to desire it to be understood that when there is any exercise of the power in the Government to enforce the laws and command subordination to that, the Government is a hostile power on the one side and the people on the other. What a mistaken idea! You might as well say that the sun in heaven is on one side to destroy or

prevent vegetation, and the earth in dread of its influence on the other. When there is an exercise of force it should be for the purpose of protecting the interests of the people, and not to carry out an empty scheme of the Government. [Applause.] Sir, no man would be more opposed than I am to the exercise of power by the Government barely to uphold a naked Government, or to the simple exercise of that power merely when that exercise of power was designed not for the purpose of securing the dignity, honor and integrity of a nation which we love. [Applause.]

Now, sir, I say to the Senators of all parties opposed to the Republican party, mend up your differences where you please and when you please. Get a welding heat upon your broken iron. Patch up your tattered garments of party acrimony. Bring into one grand conglomeration all your threadbare deformities, and array them all against the great Republican party, against the incoming administration, against the Constitution and the Union, against the country that gave you birth, against the stars and stripes even, if you will, if you are mad enough to do all this folly. [Applause.] But as for me, I will repudiate all that, and the people will repudiate you. [Sensation.]

Sir, the great Republican party have no quarrel with your factions, with your feuds, with your petty schemes of party policy, or with your tedious trumpery, your trite twaddle or trespassing tittle-tattle. The Republicans care nothing of all this. Let the Indian of the forest shoot his arrow at the moon and look to see it fall. Let him look, and when he sees that moon fall by the touch of his arrow from his bow, you will then see the Republican administration fall by your arrow from the bow you now bend. [Tumultuous applause.]

Be sure and have it not written down—be sure and have it not recorded, when you say we have not a country, have not a flag, that we are dismembered, that we are all fallen to pieces, that any State has the right to go out when she pleases and *how* she pleases, that when a State says she is out of the Union, she is out; that forts and arsenals and ships belonging to the General Government are but the sport of folly and the prize of treason. Don't let your words find a record. If they do, that record cannot be rubbed out, *littera scripta manet*; and when you read that record you read the blackest picture of infidelity and ingratitude to the best Government the sun shines upon. [Applause.] Washington and Jefferson and Clay and Webster understood the Constitution not as you misunderstand it. They understood this Government to be a Government of the whole people, in which every man had a direct interest, and to which every man was responsible [applause]; and that such a Government could not be dissolved without the consent of the people, whose interests and safety and hopes are concentrated in it; and so it is that I understand the organic law of the land. [Applause.] And, sir, notwithstanding the darkness and cloud that now lowers over our heads, yet I think that the eye of the patriot can look through this gloom, look through this murky cloud. It may be that my most ardent hope may be father to my prediction. But still I will venture the prediction that within ninety days from the 4th of March, 1861, our whole country will be relieved from its anxieties, will be relieved from all the chimeras of bruin, caetecean and palmetto ensigns—will be restored to harmony, to confidence and to peace. [Applause.]

Sir, in that brief space of time we shall welcome the most happy results; in that brief space of time, disunion will be reckoned among the dangers that *are past*, and treason will be rebuked—not by the sword, not by cannon and cavalry, not by force under the tread of martial music, not by force under the exciting influences of toreh and trumpet—but by greater and more crushing force than all that, by something keener than the sword, and more potent and commanding than hosts of warriors with all their armor on. [Applause.] Sir, public indignation will do the mighty

work which the sword might fail to do. [Great applause.] That work has already begun, and it will go on conquering and to conquer, until the outbursting patriotism of a great nation shall make one universal acclaim of "Liberty and Union, now and forever!" [Deafening applause.]

SPEECH

OF

HON. JAMES W. COFFROTH,

OF TUOLUMNE COUNTY,

DELIVERED

IN THE SENATE OF CALIFORNIA,

FEBRUARY, 1857,

UPON THE BILL INTRODUCED BY MR. NORMAN, TO CHANGE THE GENERAL
INCORPORATION LAW IN REFERENCE TO STEAM
NAVIGATION COMPANIES.



SACRAMENTO :

B. B. REDDING & CO., PRINTERS, 40 K STREET.

1857.

SPEECH.

[Upon the question of passage of the Bills changing the general Incorporation Law in reference to Steam Navigation Companies, Mr. NORMAN having addressed the Senate in favor of the passage, was followed by Mr. COFFROTH, of Tuolumne, substantially as follows:]

* MR. PRESIDENT: I rise as an opponent to the passage of these two bills, and for the time I may spend in discussing the various questions connected with the measures, I ask the indulgence of the Senate.

The importance of the subject,—its importance to the people—its importance as a principle,—might perhaps justify me in thoroughly examining the principles contained in these two bills; but I have other reasons. I represent a constituency who are supposed, by some of the leading newspapers of the State, to be peculiarly the favorites of the bills introduced by the Senator from Calaveras, (Mr. NORMAN.) I ask, then, as a peculiar favor, that I may be heard at length upon this question, in my own vindication,—more especially as it has been stated that the fiat has gone forth, that I am to be anathematized for my opposition.

I have no rounded periods for Senatorial ears,—I have no well-wrought sentences for intellectual mastication,—no tropes or metaphors to catch the attention of the “groundlings,” nor gentle speech, to win minds now dissuaded from the path I am pursuing. I simply present my argument—the dry detail of facts,—more convincing, than all the beauties of a polished rhetorician, when enrobed with the simple but beautiful drapery of Truth.

My colleague, (Mr. MANDEVILLE,) whose motives I do not impugn,—and who I am sure will give me equal credit for honesty of purpose,—

differs from me upon this measure, which is considered by the Senator from Calaveras to be of vital interest, not only to his, but also to my own, immediate constituents.

It has likewise been said, I know not how truthfully, that the inhabitants of the San Joaquin Valley are, to a unit, in favor of their passage; and I will frankly admit, that a large number of my constituents are favorably disposed to their adoption. But at the same time, if I thought a measure was wrong;—even though I am always disposed to bow to the mandates of the people,—to acknowledge their superior will,—to listen to the popular voice, and hearken to its precepts;—yet if I thought a measure was radically wrong,—that its results would work evil to the great interests of the State,—impair the bounden obligations of a solemn contract, entered into by the delegated authority of the people of the State, upon the one hand, and high contracting parties upon the other,—it would not matter to me, with the understanding that it would entrench on private rights, even though a mountain load of responsibility might rest upon me;—yet, sir, my oath, and my convictions, would force me to vote against a measure even though it received such a positive and popular sanction.

MR. PRESIDENT, I may be pardoned for thus absorbing your attention primarily. In a spirit of magnanimity to the Senator from Calaveras,—whose motives are not impugned by me, but are believed to be good and honest,—I acknowledge that a vast number of my constituents, not truly understanding his bills, are ranked as their supporters. Nearly two months ago, at yonder desk, in your presence, sir, I took a solemn oath upon the Holy Evangelist to protect inviolate the glorious principles of our enlightened Constitution,—to protect it intact from the ruthless hand of innovation,—that to me it should be a “pillar of cloud by day, and a pillar of fire by night.” I am compelled by that oath to preserve every section of the fundamental law,—to declare that, what is a right and a property to day, shall remain a right and a property to-morrow. Section 16, of Article 1, of the Constitution of California, reads as follows:

ART. I. “Sec. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.”

The reading is plain, positive, and should be convincing. There is no equivocation of terms—no prevarication in sentences. It solemnly

declares that you cannot impair the obligations of a contract; and now the question arises: Does a contract exist between the Steam Navigation Company and the people of the State, entered into on their part by the Legislature? To answer this question, I find it necessary to go back and glance at our past history and legislative action.

At the session of 1850, a General Incorporation Law was passed, declaring that one or more persons might "be formed into a corporation," for the purpose of navigating "the ocean, or any bay, river or stream, within this State." (See Compiled Laws, p. 311, § 185.) Your history proves that there was an unanimous acquiescence in its provisions; your former peers believed they were right, and that the interests of the State demanded the enactment. They thus invited the employment of capital for the development of this important department of commerce; and is it fair to presume that as this invitation was freely given,—that as the franchises which they conferred upon those who might embark in these heavy financial enterprises, were cheerfully offered,—that they intended so soon as vested rights accrued, that the privileges should be taken away, and that their acts were to be construed in favor of the spoliation of property? Sir, I opine not!

Suppose, sir, that you or I had formed a Company under the provisions of that law; would it be wise, constitutional, or in accordance with that justice which should exist between man and man, if, immediately after, the Senator from Calaveras should introduce a bill to repeal or alter the law under which that Company was formed?

This is the question now under consideration. In the early part of 1854, a Company was formed for a specific purpose; under the declared and published law of the State; under the guaranties of the Constitution, which declares that contracts shall not be impaired. They formed themselves into an Incorporation, for a specific purpose; they believed it was a contract between the Government and themselves; they believed that certain rights were guarantied by the Government of this State; and believing this, they purchased property to the amount of two millions or two and a half millions of dollars. What next? Why, that restless desire for change that seems to pervade each Legislature of California, has followed up this Company; efforts have been made to restrict them in their franchises; to take away the rights which they have acquired under the Constitution and the statutes of the land—rights which fairly belong to them. We find the Senator

from Calaveras, year after year, introducing bills which would deprive them of the privileges granted by statute and fundamental law, force them into liquidation, and compel us to resort to the old unsettled system of the carrying trade which prevailed in '50, '51, '52 and '53.

Have we a right to change this law? I have shown that the Legislature has not the power to pass an *ex post facto* law—that it has not the right to impair the obligations of contracts. The first question then, that arises, is—Is this a contract between the Legislature and the Company? I believe it is. A Company has been formed, under the sanction of a law of the Legislature; and, according to the best legal authorities, this constitutes a contract between the Government and the contracting parties. I am happy, too, to find that the views I have taken upon this question have been concurred in by high legal authority. Sir, my early days were not spent in studying legal lore; I might perhaps, therefore, be somewhat diffident in taking the position I hold, if it was in direct opposition to the views entertained by the legal profession. On the contrary, I find that, last year, in answer to a request of a Committee of the Assembly, the Attorney General of the State, in his reply to that Committee, took the ground that bills of a similar nature to these were in direct contravention to the Constitution of the State; and he brought forward an array of authorities that cannot be gainsayed by any member upon the floor of the Senate.

MR. PRESIDENT, If I may be permitted to refer to these authorities, they will fully bear me out in the assertion that the present measures are unconstitutional. The decisions I quote are the opinions of men who could not have anticipated the case before us. They are the sayings of men of superior ability, richly endowed with native graces of mind, and in the possession of a deep knowledge of the science of law.

The first authority I shall present is the case of *Young v. Harrison*, 6 Georgia Reports, p. 130, which is as follows:

“A private corporation is a contract between the Government and the corporators, and the Legislature cannot repeal, impair or alter the rights and privileges conferred by the charter, against the consent of the corporation, and without its default judicially ascertained.”

This decision fully supports my views; for we know that the Corporation, by their legalized agents, are opposed to the change to be effected by the passage of the present measure. If passed, rights

guaranteed by the Act of 1850 will be impaired ; and it even will do more ;—it will annihilate the great principle of our Constitution, that the sanctity of contract obligations shall ever be maintained. But, sir, I will present another authority. It is the case of *Rundle v. The Delaware and Raritan Canal* ; and in passing upon it the learned Judge says :

“ A corporation is private, distinguished from public, unless the whole interest belongs to the Government, or the corporation is created for the administration of political or municipal power.”

The Delaware and Raritan Canal Company, now owned, I believe, by the Camden and Amboy Railroad Company, was formed into an Incorporation by a law of the State of New Jersey, and went into operation about the year 1844 or 1845. Since that time the people have had a great desire that this charter should be repealed ; they have elected Governors upon this issue, but without success. In 1848, although New Jersey was a Whig State, and the Democratic candidate for Governor was far inferior in personal popularity to his rival, (Mr. RUNK,) yet he was elected by an overwhelming majority, upon the ground that he was in favor of a repeal of the charter of the Delaware and Raritan Canal Company, and the Camden and Amboy Railroad Company, which had monopolized the entire carrying trade of the State of New Jersey. The Democratic Governor was elected, and a large majority of the Legislature were elected upon the same issue, because they were known to be in favor of a repeal of the charter ; and, as was expected, they brought in a bill which reduced the prices. But what was the result ? Why, the Supreme Court of the State decided that the bill was unconstitutional ; just as I believe the Supreme Court of this State would decide these bills, if they were passed by the Legislature and received the Executive sanction.

I read still further from the Pennsylvania Reports :

“ Substantive alterations of the charter of a corporation by the Legislature, without the concurrence of the corporation, are unconstitutional and void.”—*The Commonwealth v. Cullen*, Penn. State Reports, 133.

I may be pardoned for commenting upon this report ; I have lived there. We have not there, what is charged as a fault by the Senator from San Francisco, (Mr. SHAW,) against the judicial system of our State—a small number of Supreme Judges. We have five members

of the Supreme Court. And one, whose name now rings in the ears of the civilized world—one whose unrivalled and matchless ability placed him far above his compeers—one who has had the compliment paid to him which hitherto has not been paid to any American jurist, a translation of his decisions into the French and German languages—such a man made the decision I quote. I have but to name JOHN BANNISTER GIBSON, and all will acknowledge that for legal ability he was without a rival.

• MR. MERRITT, interrupting, said :

I would inquire if, in the case quoted, these privileges had not been granted by a special act ; not, as in this case, by a general law, which by the Constitution could be repealed or amended at any time ?

MR. COFFROTH continued :

I cannot tell whether these rights accrued under a general or a special law ; but the principle is the same. If a Company acquires rights under the statutes of the law, what difference can it make whether it is a general or a special law ? It would be equally a violation of their rights if you destroyed their privileges, acquired by a general or a special law.

I find another Pennsylvania decision applicable and pertinent to this issue. It is in the case of *Brown v. Hamsnel*, 6 Barr.

“The Legislature has no power to alter the provisions of the charter of a corporation purely private, in any particular, without the consent of the corporators.”

A learned jurist upon the Supreme Bench of Georgia holds the following language, in the case of *Winter v. Jones*, 10 G. Rep., p. 190 :

“The objection to a law on the ground that it impairs the obligation of a contract does not depend upon the extent of the change which the law may make in it ; any deviation from its terms, by imposing conditions not expressed in the contract, however minute and apparently immaterial in their effect, is within the constitutional prohibition. A contract entered into between the State and individuals is as fully protected by this prohibition as a contract between individuals. An Act of the Legislature is equivalent to a contract, and when performed is a contract executed ; and whatever rights are thereby created, a subsequent Legislature cannot impair.”

Does the law of 1850, under which the Corporation was organized, establish a scale of prices for Navigation Companies ? Most certainly

not. It grants authority to these Directors to enact such "prudential by-laws" as their good may require; and among other duties and rights assumed by the Directors of the present Company, under this statute authority, was to form a rate of tariff on passengers and freight. By your proposed enactments you take away the authority given by our peers of 1850, and all must acknowledge that by such fatal action you impair the positive obligations of a solemn contract.

Again, sir, I find the following decision, bearing upon this case:

"A law granting to certain individuals the right to organize and form a corporation, with powers to construct a road, take toll, etc., is a *contract* within the protection of the Constitution, prohibiting the passage of laws impairing the obligation of the same."—Baekus v. Lebanon, 11 N. H., 19.

And again, the following authority:

"Private corporations are the private property of the corporators; they are designed to regulate private interests; *large investments* are made in pursuance of their authority; and the tenure by which such corporate property is held, is like that of an individual to his farm or personal estate, and an *invasion of such* corporate power, is like a *violation* of private rights. One of the strongest reasons why these private corporations should be cautiously granted, arises from the inviolability of the rights acquired under them."—13 Ward, 337, 338.

And here let me state, sir, that the Steam Navigation Company have invested two and a half millions of dollars under the sanction of your laws, which, if the present bills should pass, in a great measure would be destroyed.

From the decisions I have given—from the authorities I have quoted,—to my mind, in themselves positive and convincing,—I turn once more to our Constitution, and ask you to again consider the sixteenth section of the first article, which deprives you of the right of violating a contract. I have, I think, successfully shown, that the acceptance of the provisions of the law of 1850, and the Company's organization under it, formed a contract with the Government; and you cannot impair it now, without tarnishing the good name and fair character of the people of California.

And now, Mr. PRESIDENT, let me briefly dwell upon the policy of passing these two bills,—let us come to the practical working of their

provisions. Their friends declare that the great desideratum is to throttle the huge monopoly,—a monster,

“Of such hideous mien,
That to be hated, needs but to be seen!”

In my brief experience in legislation, I have found the most potent argument against a measure was the cry of “Monopoly!” To obtain its success, is but to increase the volume of declamation; and if the word “monopoly” be but the burden of the song, its adherents need not fear ultimate success. Now, sir, has the Steam Navigation Company a monopoly of the carrying trade? Are there no other modes of conveyance?—no appliances of transportation?—no vessels plying upon the waters of the San Joaquin and Sacramento rivers? Does the charter of this Company preclude a similar enterprize? A positive negative is the answer! And yet it is a monopoly! We all can take advantage of the law, and embark in the business; and hence, sir, the cry of monopoly is but the cry of “wolf!” uttered to frighten children.

Two-thirds of the freight carried between San Francisco and Stockton and Sacramento, is transported by schooners. This cannot be denied. But will Senators say that steamers can compete in cheapness with schooners? Sir, it is impossible. Steamers start at regular hours in the day, it matters not if lightly or heavily laden. The merchant in the country, to meet the demands of his people, orders from the Bay City certain necessary articles. His agent ships by the steamer; and at the appointed hour it takes its departure—even if this one order is but the entire freight. It matters not about the wages of hands, or tempestuous weather,—no matter if the waves roll threateningly from the Golden Gate, and appal the stoutest heart,—yet the signal-bell tells the idle and the industrious, that although the elements are warring, and indicate destruction to man’s handiwork, still the steamer conforms to its engagements, sends the traveler on his way, and dispatches with speed the necessities of life to the thrifty, yet almost famished sons of toil.

How different with the schooners. Day after day, you find them tied up to the wharf, awaiting freight, or favorable gales to carry them away. But few hands are employed, and at the cheapest prices, while the steamers are forced to pay high wages to secure proper men. Do Senators know the prices paid on schooners and steamers? Schooners pay their captains but \$75 per month; deck-hands but \$30 per month.

They consume no coal, and start at times most convenient. The captains of steamers are paid \$300 per month, and the reason for the increase is obvious: an immense amount of property is intrusted to their charge, and the person occupying this position must be a man of sterling worth and practical intelligence. Engineers are paid \$208 per month; and deck-hands \$50 per month. The price of coal, too, is \$22 50 per ton. How much coal is consumed in a trip from San Francisco to Sacramento, I know not, but I understand the expense is enormous. And yet there are Senators who wish the prices reduced to those charged by schooners.

I will give an instance, to show the difference of rates by the two modes of conveyance. The distance from New York to San Francisco *via* Cape Horn, is estimated at 19,000 miles; the distance from New York to San Francisco by the Isthmus of Panama, is about 5,000 miles. Clipper ships take the former route, coming almost with the rapidity of the wind itself, charge but from \$15 to \$25 per ton for merchandise. Fifteen dollars per ton for nineteen thousand miles! while for the 5,000 miles traversed by steamers, \$120 per ton is charged. And yet at New York coal is but \$6 per ton, while here it is worth \$22 50 per ton.

It may be proper for me to remark that I have not the slightest personal interest in this question. I neither know nor care who are the stockholders in this Company. I only regard it as a great question of right and justice; these are the only reasons for my strenuous opposition to the bills. I know that evil minds, always conjuring up something wicked, something from the corruption of their festering hearts, will accuse the opponents of the bills with being afraid to do otherwise than favor the Company, in payment for favors conferred by its officers and employees. I cannot be classified with those who either "weep with delight" when they get a smile from those in authority, or who "tremble with fear at their frown." I have asked them no favors—they certainly can demand none from me. I have never accepted the freedom of a pass upon their boats but once, and then, sir, it was a the earnest solicitation of my gray-haired and venerable friend, the Senator from San Francisco, (Mr. SOULE); and then it was, too, sir, to witness the valiant BRODERICK lead off his conquered foe, but now submissive friend. It was, sir, to witness an extraordinary proceeding

not to be seen more than once in a century,—to view King DAVID lead off the Conquered WILLIAM.

But pardon this digression. It has been admitted the price of cabin passage has been reduced to \$6, from San Francisco to Sacramento. Last year the price was \$7. I hold in my hand a statement of the prices charged previous to the organization of this Company. This statement is made by captains of steamboats plying between the various places, and the statement is confirmed by the affidavits of men of integrity and veracity. I find, then, that previous to February, 1854, the price of cabin fare from San Francisco to Sacramento was \$10—now it is \$6. Deck passage was \$8—now it is \$5. Freight, per ton, \$10—now it is \$5. Between San Francisco and Stockton, cabin passage was \$10—now it is \$6. Deck passage was \$7—now it is \$4. Freight, per ton, was \$8—now it is \$5. Between San Francisco and Marysville, cabin passage was \$15—now it is \$10. Deck passage, \$12—now it is \$9. Freight, at high water, \$20—now it is \$12. At low water, \$30—now it is \$12.

Now, sir, we come to the great bugbear—the fare between San Francisco and Red Bluffs. I find that from San Francisco to Red Bluffs, before the organization of this Company, was, for cabin fare, \$20—now it is \$15. At low water it was \$30—now it is \$15. Freight was, at high water, \$60—now it is \$27 50 to \$32. At low water, it was \$100—now it is \$27 50 to \$32.

And yet with these facts before us, or which might easily have been ascertained, Senators denounce it as a monopoly eating into the vitals of the country!

But this Company has done yet more than merely reducing the price of fare—they have spent over \$30,000 in taking out the snags and impediments to navigation between the City of Sacramento and Red Bluffs. This State has never appropriated a dollar for that purpose; but I can show that the Company have expended the amount I have named. I believe the people in the mountains do not fairly understand the question. When they do, they will justify me in my opposition to these bills.

The distance between Sacramento and Red Bluffs is 250 miles. What are the rates proposed by these bills? Three cents per ton per mile,—making the freight per ton to Red Bluffs from Sacramento,

\$7 50,—the fare for passengers averaging about \$7; and the average amount of freight taken is about 40 tons per trip.

Now I know that a boat left Sacramento for Red Bluffs, a few days ago, with only four passengers and with not over three tons of freight. But rate it at the average, I have stated, and call the average number of passengers twenty-five. The boat is able to make but two trips per month, and if the prices are charged as fixed by this bill, the total amount received will be \$2,437 50, while the actual expenses of the boat will be \$7,000—making a loss of \$4,562 50 to the owners of the boat. And yet, forsooth, they have a monopoly of the carrying trade!

Should this bill pass, it would have an effect that the Senator from Calaveras but little dreams of: it would but make the rich richer, and the poor poorer. The man who owns a large amount of stock would probably be able to take care of himself if the Corporation was dissolved; but the poor stockholder, who owns his five or ten shares, would be compelled to see sacrificed his little all.

At the organization of the Company, the owner of \$1,000 of stock paid for that stock \$1,000 in gold, and a great portion of it was taken up by poor people. Those who had been defrauded of their money by Adams & Co., Page, Bacon & Co., and other colossal swindlers, invested what remained and what more they had accumulated, as they thought, securely, in the stock of the California Steam Navigation Company. What is the present value of that stock? Well, sir, last week it was sold in San Francisco, at auction, for 39 cents upon the dollar; the \$1,000 of stock was sold for but \$390. Senators can readily ascertain this fact by turning to the newspapers and by examining the commercial reports.

MR. PRESIDENT, there is another point which should arrest our attention. This Company is bound to carry the mails; and I would ask if they have ever failed once to bring the mail matter at the appointed time? They have not. Heavy forfeitures are attached to a failure, and yet, by the passage of these bills, you would render it impossible for them to continue the contract; you would compel them to suffer heavy pecuniary losses by their non-performance, and at the same time take away the means by which they are enabled to perform this duty.

What do our people most desire? That there shall be uniformity, cheapness and stability in the rate of charges. They wish to guard

against fluctuations in prices as well as against changes in the laws of trade. Since the first organization of this Company, there has been a steady reduction in their tariffs. This reduction has been caused more from the non-intervention on the part of the Legislature with their vested rights, than a greater return from the capital employed ; and we know not, sir, if we permit them to pursue the even tenor of their way, but that a still greater reduction may follow during the present year. Sir, it was against this restless desire for change which our present distinguished President, (Mr. BUCHANAN,) inveighed in his brilliant speech upon the sub-treasury system. Every word he then uttered proved him a statesman ; and I only wish his eloquent words might now fall upon the ears of his Democratic supporters. He showed the fallacy of changes in laws governing commerce, controlling trade, and regulating the currency of the country. I commend it to my friend from Calaveras, and implore him to profit by its precepts. If he does, we will hear no more from him upon " steamboat monopolies," nor will he ever again attempt to interfere in the subject now under consideration.

Another great objection urged against the Company is, that they have a great amount of property tied up and remaining idle upon the banks of the Sacramento river, and, therefore, because this is the case, Senators urge that the people are paying the interest upon the money invested. The fallacy of such reasoning is obvious. Now, sir, if these boats belonged to different owners, and all were running, the quantity of freight and number of passengers would be no more than at present. Of course each boat would require fuel and the full complement of hands, thus the expenses would be much greater, and higher rates must be charged to meet these expenditures. On the contrary, if the Company possess all the boats, and one vessel sufficient for the trade, the prices for fare and freight can be reduced to an extent equal to the cost of running the extra boats.

We are informed by the friends of these measures of the price of freight and passage upon the waters of the Mississippi river, but one point they have overlooked. They do not tell us that from New Orleans to Louisville, from Louisville to Cincinnati, and from Cincinnati to Pittsburg, there is freight both ways, while from San Francisco to Sacramento, or from San Francisco to Stockton, there is freight but one way, and, therefore, an increased price must of necessity be charged

But I will take an instance where there is no return freight The price charged between Mobile and New Orleans—distance 135 miles—for cabin passage is \$6. There is a great difference in the prices paid to the officers and crew of the boats at New Orleans and at San Francisco; a great difference, too, in the price of coal—at these places coal cost from \$6 to \$9 per ton, here it costs \$22½ per ton.

I have sought simply to perform my duty in opposing these bills. It is personally, nothing to me whether they are defeated or whether they meet with success; but I am honestly opposed to their passage, for I believe it will be a violation of the rights of the Company, and a violation of the good faith that should be always observed by the State. I am willing to admit that a large number of my constituents are in favor of the passage of these bills; that if I was to receive a vote of instructions from my constituents I should be possibly required to vote for them; but at the same time, I think the people misunderstand the question. I shall meet my constituents and state my reasons for the course I have pursued. I know them to be intelligent and honest men, and knowing this, am convinced they will approve my course; that they will say I have acted well my part, and assumed the proper line of conduct.

The Senator from Calaveras, in his desire to produce accumulated proof against this Corporation, has produced one authority which I did not expect he would introduce. I allude to the Special Message of Gov. Bigler. Governor Bigler did send in a message setting forth that the Corporation laws should be amended or repealed; did set forth that the organization of this Company was destructive to the best interests of the people. The whole history of the matter was this: At the municipal election of that year in Sacramento, an effort was made to induce the California Steam Navigation Company to support a certain candidate for Mayor. They would not do it, and thereupon this terrible pronouncement was hurled at their heads. But, although Gov. Bigler took that ground in his message, yet it can be proven by gentlemen of the highest respectability and standing, that he has repeatedly admitted since, that the Steam Navigation organization worked well, and benefitted the people. Then, sir, this authority falls; and I sincerely believe that if the Senator would take pains to examine into this subject more closely, he would arrive at the same conclusion as his *friend* Governor Bigler.

I will not follow the Senator in his quotations, except to remark that the authority to which he referred—taken from Jay's Political Economy—is directly against his own position. The quotation was: "a multiplicity of useless laws and ordinances is a direct barrier to the national prosperity." Well, if the Senator believes that doctrine, why is he in favor of accumulating act upon act in reference to incorporated companies? We have passed a general law upon the subject. Any five or more persons may organize themselves into a company to navigate the Sacramento river and its tributaries, and be invested with the same rights and privileges that this Company possesses.

Mr. PRESIDENT, I now take my leave of this subject. I have feebly portrayed the fearful consequences arising from the passage of these two bills. I ask Senators to pause, and reflect before they trample upon private rights. Let us not be taunted with Punic faith. Let us adhere to solemn compacts, and exhibit to the world that our young commonwealth will inviolably protect the rights of her citizens. View these measures upon this principle alone—aside from the impolicy of their passage—and I will be satisfied with the result. It can be no other than the discomfiture of the friends of these bills, and the ascendancy of that pure line of justice which beautifies the transactions of good men, as fully as it ennobles the character of a sovereign State.

SECOND DAY.

February, 1857.

[The consideration of the bills was resumed. Messrs. MELONY, McCALLUM and NORMAN spoke at length upon the subject, and after they had concluded, Mr. COFFROTH replied as follows. The Reporter has not written out the remarks in full, but only certain portions.]

Mr. COFFROTH said :

Mr. PRESIDENT :—I did not again intend to trespass upon the time of the Senate upon the subject now before us, but I feel compelled to answer a few of the arguments used by its friends—I was almost about to say, the reflections made upon my opposition to the passage of these bills. I appeal to your Honor, if, during the discussion of this question—if, throughout my remarks yesterday, I did not carefully eschew all personalities. I made no reflections upon Senators. I made no inuendo that any Senator might be aspiring for office and was advocating the passage of these bills merely to gain popularity, nor did I impugn the motives of any one by supposing that his action was disinterested or otherwise. I told their author that I was honestly opposed to their passage ; that if I was the only man in the Senate to be found opposing them, my vote would be recorded in the negative. But I find that a different course has been pursued by those who favor their passage. I find that I am required to defend my motives. I am treated as an offending member rather than as one who is simply espousing a great principle of right.

I must confess that I was somewhat unprepared for the remark made by the Senator from San Joaquin, (Mr. MELONY,) in his allusion to my disinterested motives. I did not expect such an ungenerous fling from one who occupies so high a position—from one who has so long commanded my admiration and respect. I know not whether his language was used in sport or badinage, or whether he intended that it should import the usual meaning given to such expressions ; I have simply to say that the remark was as uncalled for as it was gratuitous, and is without a particle of foundation.

True, I am opposed to the passage of these bills ; as a Senator, I have a right to address my peers and state my opposition, without any Senator having the right to assume that I am governed by interested motives, or that potent reasons have been given me for that opposition.

Thus much I deemed it necessary to say in vindication of my position ; I might almost say, in vindication of my honor ; because when the integrity of a Senator is impugned, his motives assailed, for his advocacy or opposition to any particular measure which may be presented to the Senate, it behooves him to define positively where and how he stands. I throw back, then, the idle charge made upon me ; and I tell that Senator, as I tell you all, that a sense of right alone has prompted my opposition.

Mr. MELONY, interrupting :

Would like to inquire if he had not repeatedly stated, in the course of his remarks, that his motives were entirely disinterested, that it was not material to him what the final result would be ?

Mr. COFFROTH, continuing :

I said so, so far as the Steam Navigation Company was concerned, but not so far as I regarded myself a citizen of California.

Yesterday, Mr. PRESIDENT, in the first place I endeavored to show that these bills were unconstitutional, and afterward that they should not be passed, upon a question of policy. My remarks yesterday amounted to this :—That in accordance with the views entertained by the Law Officer of the State, in answer to a request for his opinion upon the subject by a Committee of the Assembly, the passage of bills similar to these would be a violation of the Constitution, and even if passed by the Legislature, would be declared unconstitutional by the Supreme Court. I acknowledged my inability to decide high constitutional questions, and more especially should I feel a diffidence in expressing an opinion when I look around and see those who seem to be the custodians and expounders of the Constitution—to guard it from all innovation—and who think they are peculiarly adapted to unravel the mysteries of that instrument upon the floor of the Senate.

The remarks of the Senator from El Dorado (Mr. McCALLUM,) have not changed my mind ; nor has the solemn gravity with which he expressed his opinion changed my views.

I declared, yesterday, I could not give an opinion upon the constitutionality of this question—First, because my early education did not lead me into legal studies, and secondly, because my subsequent pursuits in life did not require me to expound and unravel constitutional questions. I therefore declined to state, upon my own authority,

whether these bills were or were not constitutional, and relied entirely upon the promulgation of the Law Officer of the State—a gentleman selected by a large majority of the people of California for his legal acquirements and ability—and assumed that these bills were unconstitutional, upon his authority. After I made this assertion, I read the authorities furnished by the Attorney General to a Committee of the Assembly last year, and showed, as I think, conclusively, that these bills would impair the obligations of contracts; that the rights of parties, guaranteed by the law and the Constitution, would be violated; and then stated that, as the propositions I have advanced might be denied in a legal point of view, I would come down to the practical working of the bills; would examine their merits, and the effects which would result from their passage, apart from the legal view of the case.

I assumed, and I think I fully proved, that the prices allowed in these bills were not “living” prices; and I presented some statistics, furnished that we might examine the matter fully and fairly, by high Democratic authority, and thus learned that a boat started for Red Bluffs with the freight and passengers, as stated in my remarks yesterday.

Have those statistics been denied? By whom? Dare the Senator from San Joaquin deny them? Has he pointed out a single misstatement? Can any Senator gainsay the figures? Has a single item been disproved? Not one, sir. In his frenzied zeal to sustain a bad cause, and to turn the tide of fact, rolling in with huge volume against his position, he even violates the known topography of the country, by facetiously inquiring if I followed the boat up the river to Marysville, and from thence to the town of Red Bluffs, to ascertain if it accumulated no more passengers or freight. Sir, when the Senator will glean a little more knowledge of the geography of his adopted State, and ascertain that Marysville is not upon the banks, nor near the navigable waters of the Sacramento River, I will cheerfully answer his interrogatory. Until the Senator is thus enlightened, I will simply content him, by remarking, that we are now considering the navigation of our rivers and not transportation by land, as would be the case from Marysville to Red Bluffs.

The Senator declares a true maxim in his speech, but destroys it in his vote: he desires trade to regulate itself, and the laws of commerce to control the entire question. Well, sir, so do we. He does not

want legislation upon this subject, and yet, almost in the same breath, he declares in favor of the passage of a bill tending to shackle and fetter the laws of commerce,—a bill declaring a charge of but three cents per mile for passengers, and but four cents per mile for freight. Now, I hold it would be just as legitimate, just as fair, to say that the crop of the Senator from San Joaquin shall be estimated to-morrow, and that we shall enact that his potatoes shall be sold for three cents, and no more; his barley for so much, and no more; that all the products of his farm shall be sold at fixed prices,—no matter if the articles are worth more than the prices established by our enactment.

The Senator would revolt at this. It would be an interference with his private rights. What privilege have you to price his wheat, his potatoes, his barley, at three cents, when they are worth four cents in the market? You are thus impairing private rights, the Senator would answer. Precisely so; such a law would curtail his rights; and in the same manner is he endeavoring to impair the private rights of others, by passing this bill, establishing a low, or any price, for carrying passengers and freight upon steamers.

I seldom quote laws, but I will refer the Senator to one solemn enactment, not made in the Senate Chamber of California,—to be found in a law book not, I apprehend, often met with in the libraries of legal gentlemen,—the law as laid down in the Book of Books, which declares that you must “Do unto others as you would that others should do unto you.” This is the principle we wish him to apply in this case. We admit that we have no right to compel the Senator to sell the products of his farm at half their value. We say in return that the Senator has no right to establish by law a price for carrying freight and passengers upon the Sacramento River and its tributaries.

The worst objection brought against the Company by the Senator is, that they have a large number of boats unemployed and tied up to the wharves of Sacramento. He adduces this as a reason that the Company is heavily remunerated by the present prices, or they could not have so large an amount of capital unemployed. To this, I simply answer that it is very probable the Company know best how to manage their own business, and if they think proper, may tie them all up, as I believe they would do, if this bill passes.

But, sir, the Company must have reserve boats stationed somewhere to meet accidents happening upon the rivers. Suppose a boat is dis-

abled half way between Sacramento and San Francisco. Relief must be sent, and these reserve boats are at once dispatched. Again, sir, the larger boats cannot navigate the smaller streams, nor can the smaller boats run upon the San Francisco Bay. A law of Congress enacts that a boat shall be of a certain size to be permitted to run upon bays. Then, sir, there is evidently a necessity for a reserve of boats to be stationed somewhere, and Sacramento being the central place, they are moored at her levee. But suppose there was not this necessity,—that all these boats were running,—what would be the result? Each boat would require officers, and crew, and fuel, and to meet these demands, an increase upon the prices of fare and freight must be inevitable; whereas, if one boat can perform the same service, the charges must in the same proportion be decreased. The Senator is inapt in his illustration, and furnishes a strong argument against the measure.

The Senator says I have placed the price of labor performed for the Company at too high a rate; that if they have paid so much, it is a proof of bad management; and that plenty of hands can be obtained in the agricultural regions for thirty dollars per month. I grant the fact that you can get a man to plow and sow, and perform all kinds of agricultural labor for that sum, but there is a wide difference between the prices paid for working upon a farm and those asked and readily obtained for experienced hands for the steamers plying on the rivers of the State. I have the authority of one man—humble although he may be, yet is he truthful—who tells me that he has been employed in both capacities. He says that the rate of wages, as between those employed on a steamer and those employed in agricultural labor, has always been from twenty to thirty dollars per month in favor of the former employment.

The Senator declares that I brought my "battle-axe" to bear upon his friend, Dr. GWIN. Sir, I simply stated that I once only accepted the hospitality of this Company, and then it was when we all paid our respects to this distinguished gentleman, and watched the valiant BRODERICK lead him captive from the shores of the Pacific.

But the Senator grows facetious in this part of his remarks, and intimates that I am avenging my defeat for the position now held by Dr. Gwin. It is true, sir, I was nominated, but with no earthly hope of an election. There was no button-holding nor chicanery used to obtain this favor;

none of those despicable means resorted to which so infamously distinguishes past struggles for similar honors by members of his own party. It was the free, unbiassed voice of eighteen of my peers, representing 36,000 American freemen of the State of California. Sir, I refer to that vote with conscious pride. The record of it is dear to me. It exhibits the votes of eighteen honest men,—men not prompted to vote thus by the love of office,—men against whom there cannot be whispered a suspicion of wrong. I would sooner point to their votes thus obtained, than bask in political sunshine forever, or even hold a seat in the Senate of the United States, if to procure such favor, I were compelled to issue a card like the one we see printed in the newspapers of the day, and addressed “to the people of California.”

But, sir, I leave my friend from San Joaquin, and reach the speech of the Senator from El Dorado. He characterized my remarks of yesterday as intended for Buncombe. The charge by his showing thus far, is gratuitous, for I admitted that a large number of my constituents were opposed to the position I am taking. And therefore, I cannot be accused of taking a popular side, merely to catch a breath of popular applause. Buncombe consists, in my opinion, in trying to cut a great figure upon all little matters; talking a great deal about reform and economy on all small questions; making a show of reform, which in reality amounts to nothing. It belongs peculiarly to members of this class: to expend a vast deal of eloquence against the appointment of some little page, or some colored porter, or some attaché in the Sergeant-at-Arms' room, or some poor clerk. This is Buncombe. But it is not Buncombe to stand up for the protection of rights guaranteed by the Constitution and the laws; not Buncombe to maintain a position simply because you believe it is right, when many of your constituents hold a different view of the question.

The Senator says that my interpretation of the Constitution is wrong. I believe, however, I am right, and that he is wrong. I believe that the 31st section of the 4th article, and the 16th section of the 1st article, must be taken together and connected one with the other. The provision in the Constitution which says that “Corporations may be formed under general laws,” and that the Legislature shall have “the right to repeal those laws,” shall be taken in connection with the article, which says that the obligation of contracts shall not be impaired. I admit that the Legislature has the right to change the law; but if parties have acquired

rights prior to that repeal, you cannot deprive them of such vested rights. Suppose a law was passed giving me a franchise, would a subsequent repeal destroy the right I had thus acquired? Certainly not. Now, place the California Steam Navigation Company in the same position. They have acquired rights under our laws—rights sanctioned by the Constitution itself. Can we take from them those rights? I believe not. I know but little about law, but I do know that thus to take away their rights would not be acting with that common honesty which should regulate the dealings of man with his brother man: certainly would not be in accordance with that strict line of justice which the State should always observe towards her citizens.

I shall not follow the Senator from El Dorado, as I dislike to trespass upon the time of the Senate, but will only refer to the concluding portion. He says that I have attempted to prove that corporations are a blessing, not a curse; and as I do not wish to be placed in a false position, I will briefly state my views.

I believe that corporations should not exist to such an extent, should not be vested with such extraordinary power, as we find have been granted to them in the State of California. But the fact stares us in the face that they have been granted these privileges, and being thus granted, they have acquired rights that we cannot, either in justice or honesty, dispossess them. After they have been thus created, it is not for us to break down the landmarks, and declare that because former Legislatures have acted imprudently, we will act dishonestly—that we will rob parties of their rights, acquired under the sanction of our laws.

The Senator from Calaveras says I have endeavored to beautify the system; to throw some charm over the workings of the Steam Navigation Company. I did nothing of the kind yesterday; and to-day I am but vindicating my position. I wish myself to be placed right upon the record, so that I may be fairly understood in my opposition to these bills.

The Senator asks if I examined the books of the Steam Navigation Company, or if they have volunteered the information. I have not examined the books of the Company. My information was obtained through the kindness of Democratic friends. One I may be permitted to mention, the President of the Democratic State Central Committee: a man who has never been known to be guilty of telling an untruth; a man who would sooner see these bills pass with a thousand objectionable features, rather than compromise his dignity or his honor. The Senator says that

I did not take the price of freight and fare from San Francisco to Stockton and prove that these bills did not allow enough. I admit that I did not, but will do so now.

In January, 1854, before this Company had organized, freight from San Francisco to Stockton was \$8 per ton; deck passage \$7; cabin passage 10; meals \$1 50—total for cabin passage \$11 50. Now I find freight \$5 per ton; deck passage \$4; cabin passage \$7; meals \$1—making a difference of from 35 to 40 per cent.; and if there was any return freight the fare would be reduced lower, but there is none between Stockton and San Francisco.

The Senator from Calaveras argues that we have a right to dissolve these corporations, and quotes Blackstone to sustain his position. Blackstone says: "that corporations may be dissolved by an act of the Parliament of Great Britain." If he would read to the conclusion of his authority, he would have seen that Blackstone stated the reason why Parliament possessed that power. "The power of Parliament," says Blackstone, "is boundless." Sir, it is as boundless as the Empire of Great Britain; its power is resistless and potential; it is not hemmed in by written constitutions, and hence there is no analogy in this instance between the Parliament of Great Britain and the Legislature of a State bound by a written constitution, and whose acts are liable to be annulled when they are decided unconstitutional.

The Senator says that the California Steam Navigation Company have been meddling with politics. Why, sir, my friend is a member of the great Democratic party; a party triumphant from San Diego to Klamath—and if they have been dabbling in politics, it is but fair to presume, if they possess the great power attributed to them, that it must have been exerted on the behalf of his party; and, therefore, it is unfair on his part to find fault with one of the great auxiliaries in the success of his political doctrines.

The Senator from Calaveras says that a great change has come over my mind since last winter, when I suffered similar bills to pass without a word of opposition. Why, sir, last winter I knew scarcely anything about it; I had not fully examined the matter. I knew the Senator from Calaveras had some measures in preparation upon this subject, but neither he nor any one else ever spoke to me upon the subject. I was not even in the Senate Chamber when the bill was finally acted upon, until about

the time the vote was taken upon their final passage. If I had been in the Chamber, I should have voted against them.

The Senator says the company have fleeced millions from the people. I need only refer to the past to disprove the charge. For twenty-two months dating six months after the organization of the company, not a single, solitary cent of dividend was declared. The amount of capital thus absolutely paying nothing, was about \$2,500,000, which at ten per cent. per year, would amount to about \$250,000, lost entirely to the company.

If a boat should be lost upon our waters it is not the same as if lost upon the waters of the eastern States, or upon the western rivers. The rate of insurance upon steamers in the Atlantic States, is not I believe, over ten per cent. per year, and is sometimes as low as four per cent. ; but here if a boat is sunk or burnt, the loss is total, for the prices demanded in California are so exorbitant that the profits of the boats would be entirely absorbed by insurance payments. I have previously stated the rates paid by the company for the officers and crew of the boats. We are met with the remark that the sum paid is too much—that labor could be procured much cheaper—that the company should reduce the rates. Apart from the fact that a good farmer although he may make, and as we have evidence, does make a good legislator, it does not follow that a good farmer will make a good officer of a steamboat or a good steamboat hand. But the Senator by wishing the rates reduced would strike a blow at the dignity of labor, and would seek to reduce the compensation of laborers.

MR. PRESIDENT, It may be safely estimated that in the State of California twenty millions of dollars are now invested, under rights guaranteed to companies under the general incorporation laws. These twenty millions have been expended in developing the great resources of the country—in assisting in opening the bowels of the earth, and revealing its hidden treasure to the gaze of the world. These twenty millions have been invested for the benefit of the honest sons of toil, in opening rich crevices; in boring tunnels; in extracting from the soil that precious metal which preserves the financial equilibrium of the Eastern States. Pass these bills, and you strike a blow at this capital; you strike a blow at the miner; at him who endeavors, by years of toil and privation, to acquire a little competency. Sir, I feel deeply upon this question, because if this policy is adopted, eventually it will affect my personal in-

terests and the interests of my colleague, MR. MANDEVILLE; that it will affect the interests of one-third of the people of Tuolumne county, and the great interest of a majority of the people of other counties.

Pass this bill! Say that this company shall only receive so much for passage, so much for freight; and you at once establish the doctrine that all vested rights under the Incorporation Laws shall be remodded at the mere whim and pleasure of the Legislature. Pass this bill! and you at once say that the owners of ditches can be curtailed in their vested rights, and that the great principle of trade regulating itself, is but an idle vaunt to be trodden upon at any moment it may suit the caprice of a Legislator. I cannot conceive why my colleague, MR. MANDEVILLE, should be favorable to the passage of these bills; why he can favor measures destructive not only to his own personal interests, but to the interests of many of our common constituency.

Twenty millions are already invested in canals and ditches in the mountains. Pass these bills—commence tampering with vested rights—tamper with the Incorporation laws—cry down Incorporations—and as soon as you have accomplished the result intended by these bills, you will next strike at us. This is the reason why I raise up my voice in opposition to the passage of these bills. In my opinion, the interests of a great number of my constituents are opposed to this policy. If it obtain, you might as well undertake to say that the Senator from Los Angeles shall sell his land for one dollar per acre—the Senator from San Joaquin shall sell his wheat for two cents—the ditch-owner shall sell water for a nominal price—as by these bills say that this Company shall only receive so much for carrying passengers, and so much for freight.

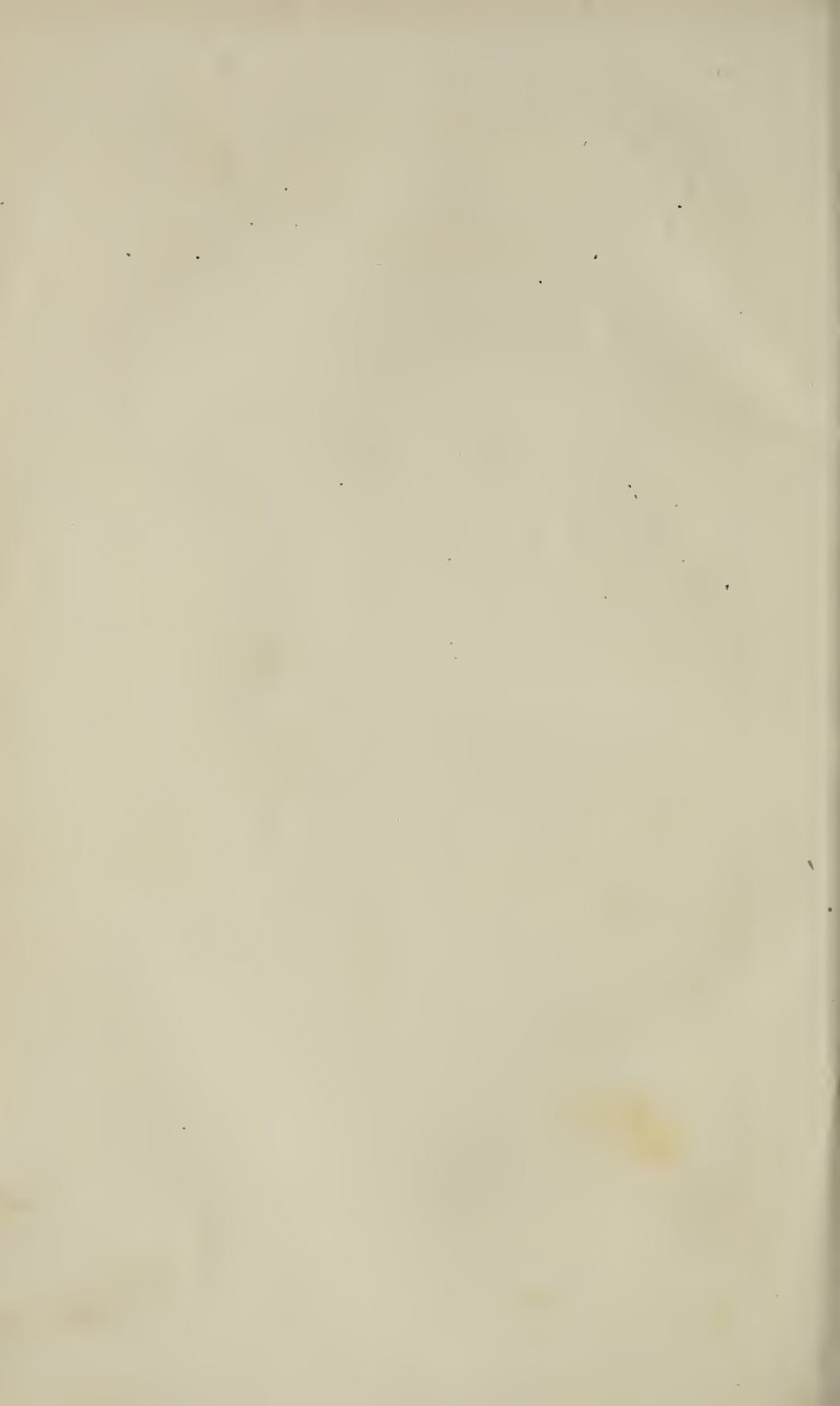
It may, without this explanation, be thought strange that a Senator representing a mountain district should take such interest in the passage of a mere bill to regulate the price of freight and fare upon the waters of the Sacramento river and its tributaries; but, sir, I believe, if the intention of these bills is accomplished, the principle will be invoked against us; and therefore, so far as I am concerned, I am determined to throttle the monster in its birth.

Sir, three years ago, in connection with 300 men, I formed a company under the Incorporation Laws of the State. Our object was to introduce water by flumes and canals, into a district of country comparatively destitute of water. We commenced, sir, under adverse cir-

cumstances, but still our industry was directed in a proper channel, and we worked up against almost insurmountable difficulties. We felt that we had thrown around us the protecting shield of law, and that we were in the possession of franchises and privileges granted by Legislative wisdom, which could not be wrung from us by the madness of faction, or the caprice of future statute-making bodies. With this firm belief, we toiled on, day after day, month after month, and year after year, through the burning suns of summer and the snows and rains of winter. Our great work is now about being finished—\$500,000 will be its cost. We invested this vast sum under your laws, and the sacred provisions of your Constitution. Soon we will receive a recompense for our many days of privation and toil. But, sir, just as light is breaking in upon us, we meet with a Legislative response that the rights we believed we possessed are to be taken away, and the privileges guaranteed to us at the commencement, are now to be declared null and void.

Sir, I cannot believe that you will commit so suicidal an act. I have an abiding confidence in the wisdom of this Senate; I entertain a firm conviction that you view the subject as I do,—and relying upon your sense of right and justice, I submit the question, believing firmly that by your votes to-day you will declare the inviolability of contracts, and the sanctity of private rights.

NOTE—The bills were defeated by 14 yeas to 15 nays.



ORATION

DELIVERED IN THE

CONGREGATIONAL CHURCH,

SACRAMENTO, CALIFORNIA,

JULY 4, 1857.

BY CHARLES EDWARD PICKETT.

My theme is of freedom and slavery—freedom for those who deserve to be free—slavery to those fit only for slaves.

Men are unequal and dissimilar; so made, like all else organic, by the natural laws producing and governing them, and wisely destined by these immutable laws ever to occupy different relations towards each other; for Nature abhors equality as she does a vacuum.

C. E. PICKETT.

Men love darkness rather than light, because their deeds are evil.

JESUS CHRIST.

It is impossible to make people understand their ignorance, for it requires knowledge to perceive it; and therefore he that can perceive it, hath it not.

BISHOP TAYLOR.

SAN FRANCISCO:

WHITTON, TOWNE & CO'S EXCELSIOR STEAM PRESSES,

151 Clay Street, below Montgomery.

1857.

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ORATION.

TIME PASSES. Another annual return of the birth-day of the Anglo American Republic is at hand. For what purpose have we assembled ?

On this commemorating occasion it has hitherto been the practice of orators, to devote themselves in speaking of the heroic virtues and sublime patriotism—of the trials and sufferings of the fathers and founders of the confederacy—in giving a historical synopsis of our rise and progress as a people ; and then soaring on the wings of exuberant pride and boastful fancy, to paint a grand and magnificent future for the great “ Ocean bound Republic ”—to which circumscribed realm, the idea has lately been started, of annexing all adjacent islands—the Hawaiian group included.

Patterning not often such useless stereotyped addresses, nor following^{ing} the wake of any^{of} these dreaming sketchers of the future—permit me to talk of things^{as} they are and will be, not as in hope and imagination we would have them.

Human nature is so fashioned as to resent the utterance of unpalatable truths, even where the listener is fully conscious that none but facts are stated ; much more offense then, may my discourse this day

give rise to, when in addition to unpopular truth, comprehensible by most, a sense of duty impels me to express that, which few may now believe is truth at all. Much of that revolutionary sentiment to which this day I give expression, finds a warrant in the great State paper just read, as well as to be met with in other writings of its illustrious author. But let me not anticipate your judgments. When finished all which I have got to say, you may esteem my good outweighs the bad, and thus but little wrath be left to fall upon my head.

In this omni-reading and book-surfeited age, it would seem superfluous to tell anew of the "times which tried the souls of men." And I shall not thus occupy your attention. Let me however say to the student in history, that though he may read all the authors who ever wrote, during and since, about our revolutionary struggle, save one—and that one be the church anathematized resplendent genius—the noble minded, unselfish, humanitarian, statesman, philosopher, poet and man of science, who first used the memorable and oft-repeated quotation I have made—then is he comparatively ignorant of the most intensely interesting page in American history; since a perusal of the productions from the pen of him, who did as much, or rather more, for the great cause of freedom, than the sword of Washington—is indispensibly requisite to carry the mind back to that eventful period, and conjure up to his thinking faculties and heart's feelings, the very body and spirit of the age.

As in our wide-extended domain, there are found all descriptions of scenery, every character of soil, climate and productions, as well as specimens of the various races and mixtures of the human kind—so has our prolific land given birth to innumerable shades of opinions, and vast varieties of parties, faiths, creeds, philosophies, abstract theories and crude, ill-digested and erroneous ideas about forms of government and the rights of man. *e*

To partially expose the fallacious premises and unsound arguments entertained by many with reference to these latter questions, is the task I have chosen to perform this day. It is peculiarly appropriate. I have only to regret my inability to handle it as its importance demands. What I shall now say, is but the advance of certain propositions, which at a future time, will, with a variety of cognate questions, be more fully elucidated.

Nations, like men on earth, are born—go through all the various stages of life, and then no more. This law is as immutable as the one

which decrees that man shall live and die. Each are short or long-lived, according to the vital energy that's in them, their healthful development and conformity to the laws of nature.

Like the individual man, every new government or nationality, has to pass through its period of youthful follies and errors, and learn wisdom only by experience. Take for example our own country. It was birthed full formed, in an enlightened age, had the purest and wisest of preceptors, the most loving and solicitous god-fathers. These taught us our duty, told us of the dangers and temptations that would beset our onward career, warned us of the difficulties that were to be encountered, and pointed out where such difficulties and dangers lay, and how to avoid them. They cited us to the pages of history, where for ourselves, we could read the fate of those which had existed before—how their sins and departure from the path of principle, had brought in time their inevitable trains of evil and affliction. Yet all this good advice avails us but little; we too in infancy must put our finger in the candle, and in youth sow our wild oats, and derange the system by irregular habits, dissipation, debauch and extravagance. Let us beware though, lest we become afflicted in our spring time of life, with a lasting and incurable chronic disease, which shall bring on premature old age and shorter ^{er} existence.

This is eminently a fast era, and especially so with the American people. A utilitarian spirit, a gross materialism pervades all classes of our society. Progress, most speedy progress are we making in the acquisition of wealth, development of the resources of the country, and discoveries of new arts and inventions; but at the same time retrograded with like ratio in other more vital interests. From the lips of the vast mass of our population—the short-sighted, unthinking multitude, we constantly hear the boast about such accelerated physical advancement. These will exultantly tell that everything goes now-a-days by steam and lightning—that the arts, sciences and manufactures are being more rapidly developed at this period than even before in the world's history. They will tell you of the astonishing growth of our Republic, in so short a time—of its expansiveness in territory and increase in population, wealth and luxury. But my friends, has it not occurred to you sometimes that we have travelled too fast in these things for our own good—that a certain mathematical proposition is applicable to this accelerated progressiveness, which would prove, that what we've made in time we've lost in weight. Not such weight as can be hefted in your money scales, nor measured and worked out by

dollars and cents, figures and statistics ; but tested by the amount of virtue and correct principles in the land ; and also that quantum of sound philosophy, which teaches a people how best to acquire happiness in this world, and attain fitness for enjoying a blissful future. It is some consolation however to know that this increased momentum will carry us all the sooner to the end of our reckless Jehu ride, when a crash up and overturning of our falsely-sustained society and erroneous form of government, which latter gives encouragement and impetus to this wholly absorbing, selfish pursuit of gain—will be the happy result.

A thirst for gold, the money-making mania of the day, and its accompanying luxurious and animal indulgence, is fast poisoning the life-blood of the Republic, as at present organized. Its early downfall, or rather change of system, it were wisdom to hasten. For all other distinctions in society being abolished, and there existing in man an innate and proper desire to rise superior to his fellows—he sees in the acquisition of riches, the only road to a higher and more influential position. And since with rare exceptions those who amass fortunes in our land, are of the most vulgar, coarse-blooded, uneducated, avaricious and depraved orders, and this wealth giving such power, its owners, whether acting with or against the pauper rabble—demoralize and degrade society, destroy the virtue of the whole community, and aid in overturning the best institutions of ~~the State~~. *a people*

As evidence of such deleterious influence, permit me to partially draw aside the curtain from the picture of our own State, which the *particeps criminis* and their fool dupes, among us, strive so hard to keep down in order to prevent the outside world looking upon so deformed and horrid a front, compared with which, the countenance of the veiled prophet of Kohrasan was attractive and loveable.

Our newspaper men, as also other superficial observers, self satisfied individuals and mercenary demagogue flatterers of the people—are always boasting about the vast amount of talent, intelligence and enterprise in California. In what I would ask does this superior talent consist ? Where its manifestations ? If measured by the tests of wisdom in other lands, the reverse is most true. That there is little among us of what may be termed witlessness and stupidity, is readily admitted, and likewise none deny, but there is very much of physical energy, and great activity of mind in regard to money-getting—even in this, however, there is little exhibit of true wisdom, or else why is it, that in a country of such vast resources for wealth, nearly

everybody is bankrupt—and a majority, in our cities at least, without a picayune in pocket. Must we look for an indication of this intelligence in the patronage and pursuit of science, philosophy and polite literature? With the exception of most few, the native Digger tribes foster and encourage letters and development of the higher elements of thought and learning, as much as do our “enlightened” Anglo Americans and others, from countries boasting of civilization and christianity. But shall we seek for this general intelligence in the excellency of our governmental affairs—in a model code of laws, which delights our citizens to live so happily under, by reason of the lightness of the burthens imposed, and their equality of action? Come, braggarts of California intelligence, what have you to say under this heading? Here is the true field for displaying the wisdom of a self-governing people, whose political institutions are, in theory, based upon the virtue and intelligence of the masses. Yet what exhibit in this do we make? what is our condition? why, the worst governed people in christendom. Our laws are a jumbled mass of contradictions. Dishonest special legislation, and stultifying decisions in the Courts, have all along been the order of the day—whilst from the start of our prematurely born State government, gross venality and consummate ignorance have striven in all its branches to outvie each other. This in most of the City and County governments, as well as State. That the truth is here misstated not, let the condition of the country speak. Let the fruit attest the character of the tree.

And wherefore do the people so long suffer this? I answer again, because they are too ignorant to see how to right matters, and therefore grown, some so vicious and degraded as to prefer such a state of affairs; others listless, and for a time inert and submissive. It certainly is not the wish nor interest of a vast majority to live on thus; but lacking that boasted intelligence, in order to rectify, through regular modes, the wrongs under which they groan, they seem to be growing reckless and indifferent to their condition and future fate. The next move, and we are not greatly off, will be to surrender up all attempt at self-rule, and call for a dictatorship, or else rebel against the whole existing order of things—effect a complete revolution—banish or hang, if found necessary, the present host of Catiline conspirators in the State, and organize anew, on a widely different constitutional basis.

Look in upon the members of our various Legislatures, and see how little real intellect is to be found among them. They are mostly young men, vain of their position, because above anything such a class should

have been suffered aspire to, but profoundly ignorant of the high and responsible duties attached to it. Animal in nature, sensual, dissipated, with gross feelings and perverted tastes, and the large majority prostituted to become the venal and pliant tools of arch-scheming villains—what of loftiness of thought, soundness in judgment, and patriotic promptings, could be looked for in such an assemblage? What wholesomeness in laws, and investigations into that most abstruse and grandest of all sciences—governmental—could be expected to flow from such a source? Here and there, amid these sarcastically termed Solons, were to be seen men of a different stamp—a few, who, sober in habit, of superior judgment, and contemplative turn of mind, essayed to have affairs conducted differently. Even these, however, lacked nerve and boldness, if having sense sufficient, to stand up manfully enough, in defence of the right, and in opposition to the wrong. But what else could be looked for in a land, where nearly everybody came for, and are all the time anxiously engaged seeking after money.

Wisdom and genius are the offspring, not alone of intellectual culture, but cometh also of the heart. To be truly wise, one must be good. Truth is often visible to the man of mediocre talent, where purity dwells within his bosom, and conscience dictates all his acts, while invisible to him of higher mental attainments, but impure in sentiment. In California the great mass of men, and I may add, women also, are inordinately selfish. To get money quickly and spend it lavishly, in the gratification of their grosser appetites and misdirected fancies, is the absorbing thought and pursuit of most all. Whilst this state of things lasts, we may look in vain for anything noble or generous among such.

The greed of gain ever dries up or shoves out from the human breast all the purer, lovelier emotions of the heart—all that's unselfish, refined, gentle and impulsive—it leaves man soulless. The shape, the physical frame, may be left, but the spirit is changed to something else than nature's higher attributes intended it. The individual man, gregarious and aggregated, makes up the body politic. The same laws, which govern them separately, operate upon the mass. If there be not any private virtue, then there can be no such thing as public virtue; and without the latter no government, and above all others a Republican, can exist. For society cannot cohere without virtue; and society must exist in order to establish government. Government in California has proved a failure, because it lacked this vital and essential essence of virtue. But not alone in California do we witness

ingredient

this prostration of moral sentiment, and rapid tendency to a subversion of the present form of government. In most other parts of the Union the same causes are operating to a greater or less extent, and like effects will ere long result.

Our fathers fought against an external foe, against oppression and injustice, whose seat of power rested in another land. They rose in arms likewise, not in order to right any very grievous wrongs, under which they actually suffered, but in defense of a principle, and also because they thought themselves old enough, rich enough, and fully capacitated, in every particular, to set up a household for themselves. They threw off a foreign yoke, that was but the weight of a feather, compared with the domestic despotism, which, owing to a variety of causes, we, their descendants, have self-imposed upon our necks. Talk of liberty in this land! It is false to so term it! The thing is spurious!—a base cheat!—it is a bastard! or if born legitimately, has, through erroneous education, licentious indulgence, and imbibation of every species of wrong sentiment, become disfigured in face, deformed in shape, in mind diseased, and morals depraved!

But more than aught else, the rapid declension of our people from all that truly elevates them in the scale of humanity, that gives nobility to the soul and dignity to man, which teaches him to look aloft, and aspire to higher aims, lies in the mistaken character of our government. It seems beautiful in theory, but in practice is bad. It was established on the supposition of a high and increasing state of intelligence and virtue among the whole community, which sort of basis, books give no account has ever yet existed on this globe; and judging from the slow progress human nature makes in perfecting itself, I do not perceive, that any such bright millennium sort of period will arrive for innumerable ages to come.

Besides, the popular idea entertained, that a people living under a Democratic order of government, where each person has an equal voice in public affairs—the same right to vote and hold office—and consequently having such weighty obligations resting on him, as would tend to better educate one in his rights, make him more jealous of his liberty—cause him to exercise greater particularity about placing none but the best citizens in posts of trust and honor, and thus in its workings render each successive generation, more and more enlightened, virtuous and patriotic—is found out already by our own experience, (and history informed us of it before) to be most fallacious. On the contrary, the practical effect is the very reverse—thus rendering us

year by year less fitted for such self rule, by reason of its degenerating society and deteriorating the race.

I do not so much call in question the wisdom of those who framed and put in motion this government, for we have in practice departed widely from its original intent. Whilst a palpable violation and transcending of the letter in some instances, and latitudinarian construction in others, of the special power of attorney under which the States' agent acts, has been tending to break down all the checks, barriers and guarantees erected against the passions, selfishness, despotic proclivities, and sectional preponderance and dictation, of an absolute majority,—nearly the whole of the States have most unwisely, by gradually giving way to popular clamor, and party demagoguery, and race for office, divested their Constitutions of every conservative safeguard, and surrendered all power into the hands of a fickle, suicidal, free suffrage populace. Other peoples, in ancient as well as modern times, have experimented with this kind of government, but it speedily proved a failure; and the more terrible its end, the longer it was persisted in being upheld. The sooner we retrace our steps, and retrieve our former position, or in fact go back beyond it, the better.

I hope none will misunderstand my premises, since then they will better appreciate the truth of the deductions arrived at. I question not the natural virtuous inclinations of the majority, nor their anxious desire to have public affairs managed for the best, because it is their interest such should be so done; but what I do say is, that few in any land comprehend the first rudiments in the science of government, and that these few, under the practical operation of our system at the present day, are the very men upon whom the majority will refuse to bestow office, unless such shall smother their honest convictions, stoop from their proud manhood, and pander to the false opinions and prejudices of those whose suffrage they may seek. This state of affairs arises from the fact, that no legislation can be wholesome, nor a government stable and able to protect all the various interests of its citizens, unless those who have the conduction of affairs shall possess wisdom, sagacity and firmness sufficient to look far ahead, and frame such laws and originate a policy—though these are unpopular at the time—as shall be best hereafter, as well as now. But the short sighted and unknowing masses, not perceiving the beneficial results which are in time to flow therefrom, and having their prejudices operated upon by demagogues and others, whose vision, like that of the multitude is circumscribed, and minds led astray by the specious and plausible,—ig-

nore the men and measures they should sustain, and bestow confidence upon and adopt those only, which shortly bring disastrous results.

The great body of a people think and care little for posterity, and yet the happiest, even in their own day—apart from the duty we owe to our descendants, are those who so order and conduct affairs as shall best benefit future generations. The mass see not the evil until it is upon them, because hearkening not to, nor following the advice of those who, perceiving such coming, point out the way to avert it. And this lack of foresight in the community, ever has and always will exist. To know the present and future, one must know the past. Yet how few among the multitude read history, and among that few, how rarely is one found who has learned any wisdom from his studies.

Whilst nearly all philosophers, historians and statesmen, agree that a free democratic form of government is the worst ever instituted, and which has always proved itself so, by quickly coming to an end,—the question never yet has been settled what order is best for man to live under. No one system, however, can be adapted to all; since the variety of race, its spirit and genius, state of civilization, age of the nation, area of territory and geographical position, must all have a bearing in shaping the character most suitable to each. That something approximating to the admirably checked and balanced Roman Republic, during the palmiest era of that lordly, world-conquering race, would best apply to us Americans,—at least the slaveholding portion—is my strong conviction. At the same time, I must express my exalted admiration for that, from whence came the most of our forefathers, and which in fact much resembles the old Roman Republic. For take it all in all, perfections and imperfections, (and no form can be void of many wrongs, errors and abuses,) I hesitate not to declare, that the best government on the globe at this day, is that of the English—at least it is most suitable to the genius of our Teutonic-British race.

That we shall early adopt a different plan, after first passing through that invariable and necessary chaotic state, and revolutionary period, —which tribulatory, enlightening and purifying ordeal, will be more or less severe and long continued, according to the fragmented part of the Union in which it occurs,—is as certain as the coming of the morrow. Two causes will bring about this effect: One, the inevitably approaching and not far distant revolution, which is to dethrone the many headed tyrant,—the other, and earliest, the breaking up of the federal compact.

If all history, ancient and modern, had not proved the fact, that an autocracy, or absolute rule of the one man power, was a far superior order of government to that of the absolute rule of the many in a democratic form,—the blighting, tainting, soul-destroying despotism of the populace in our own boasted land of freedom, is rapidly now giving, and promising future proof of its tenfold worse sway. The reign of Nero was mild and merciful compared with the horrid tyranny and appalling “reign of terror,” under the free Democracy of France, towards the close of the last century. In Russia there is far more wholesome freedom in many particulars, and much better protection and encouragement given to arts, sciences, and the higher order of learning at this day, than in the United States, and soon Russia will, in every particular, be a freer and preferable government to live under than ours must ere long be, unless we change its shape.

Provided a sovereign be wise and virtuous, an absolute monarchy is, as history attests, the best government for a people ever instituted. Where a ruler of contrary character ascends the throne, it is then the worst,—barring and excepting the unchecked, ignorant, brutal rule of the major mob, in that unnatural condition of things where it is declared all men are sovereigns, have equal privileges, and stand on a perfect equality.

Another superiority of the *unus* over the *multus-homo* power, is the easier and more speedy method of getting rid of the tyranny of the former. For when the cruelty and oppression of such, become too grievous to be longer borne, the stiletto, or poison, quickly despatches the cause, or some sudden and short-lived revolution dethrones and beheads the man, or forces flight from the realm. And then, without changing the form of government, a wise and virtuous successor is chosen, or permitted hereditarily to claim and ascend the throne,—the more especially this sort of one,—the severer the burdens imposed by the bad sovereign. Thus Rome, even in her degenerate and declining years, alternated between good and bad Emperors.

One reason why so many kings and autocrats have proved tyrants, oppressing their subjects with bad laws, onerous liabilities, and curbing their liberty of speech whenever any dared complain of exactions, and which state of affairs at length created a rebellion, that cost the sovereign his life, is because of that flattery, deception and intrigue, which ever surrounds and appeals to the source of power and patronage, and which source at length becoming corrupted, judgment perverted and ears closed to all sensible advice and virtuous appeals, renders it dan-

gerous for any one having the good of the State at heart, and wise enough to see the errors of the governing power, to speak or write about such, much less approach the presence and thus address the wayward, befooled and perchance bloody despot. So in a free democracy, where the majority has unlimited sway,—for flattered, cajoled, and deceived in every way, by office seeking demagogues, panderers, pimps, parvenues and public plunderers,—their worse faults emblazoned as the loftiest virtues; every false and crude notion, endorsed as the perfection of wisdom, and such proclaimed to the world as incontestible evidence of the high intelligence and virtue of the mass of the people, and proving their admirable fitness for self rule,—the time at length arrives when no man dares speak boldly the words of truth and soberness to these multitudinous tyrants. If for a period, life be not endangered, the honorable ambition, and all hope of being elevated to official position, has to be abandoned; ardor is deadened, and all incentive and efforts to serve one's country with voice and pen, in a private station, withdrawn, because of so few being willing to listen. Instead of this, should one—urged on by a devoted love of truth and unavoidable solicitude for the well being of his fellow man, continue to defend the right, he is hissed and sneered at by the selfish, time-serving politicians, and hungry place seekers, together with their sycophantic, subsidized scribes and newspaper editors, who are aided and abetted by most of the phariseeical priesthood—a mercenary, cold-hearted, cold-blooded band of stipendiaries and tithe gatherers; who, in all ages and countries, are the upholders and evil advisers of the powers that be,—provided that power upholds them.

Around the throne of princes, hang those lords spiritual, who always manage to be the power behind it, in oppressing a people, destroying all freedom of person and conscience, instituting inquisitions and decreeing wholesale massacres of those who may dare question their dogmas and infallibility, or profess a religious faith different from what these, impiously claiming to be Heaven's vicegerents on earth, shall, in their own pride and presumption, proclaim to be the true and established one. But let the throne, which these very men mainly aid in undermining, by reason of their bad advice and infernal despotism, be seen tottering, and soon we find such sacredotal gentry allying themselves with the mob, and urging it on to do the same outrageous wrongs and bloody deeds. As eminent and well known examples of this latter, witness the death-dragging of Socrates, banishment of Aristides, and crucifixion of Christ.

Like Socrates, Jesus Christ was a great and good philosopher and reformer. Deeply imbued with the pure spirit of nature—to the harmony of which his own was sweetly attuned; possessing a heart undefiled with sin, and hating vice instinctively, and adoring virtue in all its forms and phases, he became, from living among so corrupt a people, and obeying that law which causes extremes to beget extremes, an enthusiast in defense of truth. Fearless of consequences, he assailed the impure, power-loving priesthood, and forfeited his life for such temerity. For the rabble, artfully instigated and pushed on to violence by these cunning, bloody-minded churchmen, and pandering, mercenary writers, preferred releasing a robber, that they might get rid of the much feared and hated innovator Jesus; in whom the Governors of enlightened, tolerant and “*heathen*”(?) Rome, could find no guile, nor see aught worthy of punishment. But I’m wandering. Let us now turn to that other great and momentous question—a disruption of the confederacy.

The Southern Colonies, especially Virginia, were always pets of the British crown, and had little cause of complaint against the mother country on their own account. Sympathy with the Colonies north, and resentment for *their* mistreatment, chiefly aroused the passions and patriotic fire of the former, and induced them to enter so promptly and vigorously into the Revolutionary contest. The North called upon the South for help, and the South at once generously and unselfishly gave it. For the cause, she furnished a galaxy of statesmen, orators and heroes,—of what character and calibre, let history tell. There were giants in those days, and such were of that race.

But where now is that fraternal attachment; those ties of love and mutual dependence, which made, and alone have held the Union together?—a union that was baptised in and consecrated by the martyr blood of so many of that noble band of sires! Examine your own hearts, ye who listen here to-day, and answer the question. Contrast the sentiments in your own bosoms,—you who on this anniversary twenty years since, or even half that time, felt such emotional thrills pass through your frame, whose blood coursed so swiftly along the veins and generous pride swelled up from the inner fount of feeling, at the booming sound of cannon—on seeing the broad folds of the star flag unfurled, and listening to the fervid flow of eloquence that fell from the lips of orators, whose impulsive love and patriotism—like your own—were then co-extensive with the boundaries of the Republic!

They are gone—forever fled ! Dead in you is that ancient spirit ; extinguished the holy fire, which burnt in a common temple. For a time, a few glimmering sparks may arise from the expiring embers, but soon the hearthstone will be cold. What though you may get up processions, fire salutes, ring bells, waive the national bannered ensign, and engage frothy, declamatory orators to talk over and over again about the acts and shades of forefathers, and brag about the bigness of the country, and of the smartness and puissant mightiness of its destructive, Young America rulers—it will all unavailing prove. These demonstrations are now but hollow-hearted—worse than the Pharisee's prayer. Self-glorification, and to have a holiday jollification, is the chief—if not sole incentive to observe the day. The great heart of our people has become sectionalized, and soon the territory and government must be bi-sected in order to conform thereto.

The uniting of the northern and southern sections was, at the start, a great mistake. The alliance is an unholy one, because contrary to nature. She forbade the bans, but amid the general joy and jubilant congratulations consequent upon achieving their independence, and kindly regards enkindled by a common cause and suffering, the two people were blinded to the fact of their wide dissimilarity in so many particulars, radical objections in bringing themselves under the same government, and necessity, that would arise at no distant day, compelling them to effect a divorce. As well expect to mix oil and water, or bring in juxtaposition opposite poles of magnetic needles, as attempt farther, to amalgamate the repellant, antithetical elements north and south—which year by year grow more dissimilar and divergent—and harmoniously blend and consolidate them under one government. A Czardom might hold together these fundamentally antagonistic schools, but not a Republic. The sooner therefore a separation of the three great divisions takes place, the better ultimately for all—but especially is this action of immediate vital importance to the Negro slave-holding States :—and then for a generous rivalry, to test the wisdom of each in framing the best form of government, as adapted to the peculiar condition and characteristics of their respective citizens.

Washington early saw this widely variant sentiment between the people of the northern and southern States ; and we have every reason to believe, died regretting his participation in bringing about their union. That he was fully conscious of the discordant materials thus cemented, and feared an early severing of the pieces, is made clearly manifest in his farewell address, wherein he warned the citizens of the

Republic against forming parties on geographical limits—prophecy most correctly, that whenever such event came to pass, they must inevitably dissolve their connection soon after. The day has arrived, that witnesses in part, the fruition of the fears of our *pater patriae*. But two wiser than Washington—those mighty intellects, the great Jefferson and Calhoun, who laid down the only plan, by which the boundaries of the confederacy could be indefinitely extended with safety, and any number of States held together under one federal compact—died also, it is well known, in the full belief that the days of the Republic were numbered, and would shortly after their time, cease to exist as a unit.

It is useless for man to war against nature. Apart from other considerations, we are so situated geographically in this Pacific Division, as to enforce an early separation from the Eastern portion of the Republic. Not only does a great mountain barrier and vast stretch of intervening desert divide us; but our interests also, conflict and estrange. Our backs are turned towards one another. Each has a great ocean bounding its shores, across which the inhabitants of one look East, the other West. One is wound up in interest and constant intercourse with Europe—the other seeks to form a similar alliance, and monopolise the commerce of Asia.

But more than this, our political connection and dependence is ruining us. It tends to destroy that individuality of independence, self-reliance and manly pride, so necessary to energise a people, develop the resources of their country and form and uphold a good government. We must be self-sustaining in arts, science, literature, commerce, manufactures and agriculture;—and this cannot fully be, so long as we remain an integral part of the present government. Our condition is much like that of the American colonies at the time of their separation from the mother country. In proof of our utter subserviency and its corrupting, blighting, enslaving influence, witness the present political condition of California, which chiefly owes its debasement, to our Eastern connection.

What is this country but a sort of satrapy, ruled by the Executive at Washington through his two lords lieutenants, the Senators; who purchase their election by means of the federal patronage they promise in the name of their master at the white house. We are not a sovereign State, but a mere dependancy—a kind of foreign conquered province, governed by a species of duumvirate proconsulship. Let us cut loose at an early day and commence that, which sooner or later, must be done—solving the great problem of what order of independ-

ent government will be best for us to live under here. That it must be one widely differing from the present, is daily becoming more and more apparent.

According to the *theory* of our government, all are on a political and legal level, where each person is free to rise to eminence, and eligible and chosen to fill the posts of honor, trust and profit, according to his superior virtue, learning, and sound views of law and the rights and best interests of his fellow-citizens—and likewise occupy that sphere in the social relations of society, to which one's refinement of manners, honorable bearing and intelligence entitles. This looks fair enough in principle, but how works it in practice under our experimental self-rule? Why, just the reverse in most parts of the Union at this degenerate period; but worse in our vicious and degraded State, than any other—where the poet Byron's definition of a Democratic form of government, is clearly shown to be most graphically correct—"an aristocracy of blackguards."

Let me hold you up another portrait I have painted from life, of this mongrel, agglomerated herd of humanity, drawn within the vortex of our great golden Maelstrom, and all prone to delving or supinely craving, as if for life, after the yellow sands of our Pactolian streams. Unlike most artists, I do not flatter any in my paintings, but pride myself in the correctness of the likeness, which most of you will doubtless recognise in this instance.

The fool many, rule the sensible few, instead of the few the many; and ruin and oppress themselves as well as the helpless minority;—because few there be in any land, who can comprehend the first principles in the science of government, or know how to choose for office those who do.

The Constitution of the State has been repudiated and set aside, and the doctrine boldly proclaimed, that legislative enactments and a popular vote of the people at any time ^{are} of paramount supremacy.

Neither property nor life is protected or secure. Capital is forsaking the land, because of the onerous and unequal taxation levied on it, and the unsafety of investing it here. Everything is in doubt and turmoil. People have become gloomy, despondent and reckless, and worse yet the condition of affairs must be, before a brighter day shall dawn upon us.

Some of the oldest and best citizens of the State are leaving it for good, and thousands more of the most valuable part of the population would gladly abandon us, could they get away.

Citizens of other States are chosen to fill most all the public posts, rather than the *bona fide* residents of this.

Men without property and who never pay a dollar's tax, make all the laws to govern property and assess taxation. And taxation without proportionate representation, is held and acknowledged, in all countries possessing a shadow of freedom, to be just cause for revolution.

Wisdom, honesty, independence and peculiar fitness are insuperable bars to a man's preferment—ignorance, gross venality, and incompetency, practically the highest and most popular qualifications for office, as well as entitling one to occupy that most responsible place, the editorial tripod.

The elective franchise is a farce—men openly sell their votes and even boast of it, whilst almost every public post throughout the land is bought and sold.

Principles are abandoned, and men without principles substituted.

Confidence between man and man is destroyed.

The line between *meum* and *tuum* almost obliterated.

Virtue is at a discount, vice a premium.

Self and pelf reign supreme—money being the sole measure of merit, and with most rare exceptions, alone buys friendship of man or love from woman.

The strata of society have been upheaved and reversed—the top is at the bottom, the bottom at the top—the pyramid stands on its apex.

The vulgar and unrefined shove aside the polished and refined, and take their places.

The vicious lord it over the virtuous, instead of the virtuous having precedence of the vicious.

The drunkard is preferred to the man of sobriety.

The little outtop the big.

Plebeians outrank patricians.

Muscle is superior to mind.

Knowledge no longer gives power, except the knowledge of demagogue arts, and a proficiency in that low cunning which rules the rabble.

Youth and inexperience have taken the reins of government out of the hands of age and experience.

Boys and girls hector and direct their elders, instead of the latter ordering and controlling the verdant youngsters.

The advice and teachings of the wise and good are rejected, and the ignorant and bad exalted and obeyed.

Heaven is unthought of—earth and earthly objects, the highest wishes and sole existence cared for.

'Tis the whole of nature is reversed, and everything runs counter to her laws. Consequent upon all this, disorder reigns instead of order,—evil usurps the place of good—God is dethroned and the devil enthroned!

And not alone in our country and continent has this modern American Democracy and “Yankee enterprise and speculation,” been productive of infinite evil, but tended to corrupt the whole world. It has reacted most injuriously in Europe; but that continent revenges itself on us by transshipment to our shores, of an element, which, owing to mistaken policy, has been too largely increased, and clothed with too great political power for our good, and thus by a seeming providential vindication, is made one of the chief instruments for destroying all genuine, independent Americanism, and overturning the government.

We have admitted a wooden horse within our Trojan walls. Like the Pretorian band of the Roman Emperors, or Janissary Guards of the Turkish Sultans, the Irish legions which sustain the dominant party in our Republic—made conscious of their power—have grown insolent, turbulent and dictatorial. If not demanding all the offices for those in their own ranks, this *imperium in imperio*, these transplanted Celtic clans, declare who shall and who shall not be promoted. While none belonging to the Democratic party can have the least hope for preferment, without first humiliating themselves at the feet of these foreign subsidiary forces, which have been quartered in our midst to conquer us—the opposing faction leaders, and ardent, selfish office-seekers of other faiths, have likewise paid court to them through hypocritical arts, in order to obtain their support; which, though but little successful, resulted in causing these mercenary and priestly swayed allies, to make new demands and conditions with the party to which they were attached, for remaining faithful.

Many advocate a modification of the Naturalization Laws. I demand, what will ere long be done, *an unqualified, absolute, total repeal of them!*

And now to treat of another deeply important and exciting question, on which—since I denounce no man nor section, but only the principle, for holding adverse sentiments, I claim the privilege of freely speaking my sincere convictions.

A dissolution of the American Confederacy will soon thereafter bring to a culminating point, two equally false opinions, entertained by

so large a portion of the inhabitants of Europe and America—one the idea that a Republican government is best for a people, and can be long maintained on our largest liberty and leveling principle—the other, that the institution of slavery is wrong, and early to become extinct. The Northern section will soon find out how suicidal and hopeless will be the effort to keep up their present real liberty-destroying and demoralizing governmental form—will open their eyes, as thousands there already have, to its evil workings, and soon effect a change. While the South will more determinedly than ever sustain their slave relation; and the crusade against it ceasing, the area of this order of servitude will extend over not only most parts of America, but other portions of the globe.* That wild, false spirit of free Democracy—the absolute domination of a universal suffrage majority—a spurious article, where the rabble and dregs of society obtain the mastery, and rule and ruin the State—and the anti-slavery furor, arose about the same period. Together they will go down, and that event is not far distant. The natural laws governing society, will, if violated, vindicate themselves, by producing those unbearable evils, which false theories, practically carried out, always compel us to suffer, by way of penance for departure from correct principles.

To enter into an elaborate argument to prove that slavery is inherently right of itself—is a natural component part of the social and political elements of society, and not necessarily maintained by force, nor subject to climatic laws in demarking the boundaries of the institution, nor yet solely dependent on color even—is not my purpose to-day; although a question of vast magnitude in our land, viewed in various lights; for it is a fact demonstrable by history, as well as deduced from a philosophic study of man's nature and the science of political economy—that Republics, of all other forms of government, can alone be upheld where such system prevails.

In these opinions, I am swayed by no prejudice of Southern birth, rely not for sustainment upon Biblical authority, save in its historical character; but appeal to all history, point to the condition of man the world over at this day—adduce in evidence the testimony of the greatest living and dead philosophers and statesmen, and arrive at such views upon my own farther examination and deductions, based upon ethnological studies and knowledge of the character and condition

* Ten years since, I predicted that the fleets kept up on the Coast of Africa, for that worse than useless purpose, the suppression of the slave trade, would be withdrawn before twenty years had elapsed. I reiterate here the assertion for the balance of the time.

of the various species, and varieties of the same species of the genus homo, living upon this world, all which conclusively evidence to my mind, that the natural and proper relation of mankind, is that of the governing superior, and servitor inferior; in which condition, the greatest amount of happiness to each class, can be obtained, and the loftiest and most lasting elevation of the human race attained.

As germain to this topic, I would express my opinion relative to an infamous and grovelling sentiment, to which our largest liberty, licentious freedom, false humanitarian notions, and sectional hate have given birth. It is the effort in certain quarters of the country, to raise the inferior orders or colored castes on a level with the white race, or rather sink the latter to the lower condition of the former. This doctrine too, seems to be rapidly spreading in most of the non-Negro slave States, since the election of the late Speaker of the House of Representatives—a gentleman who boldly advocated the equality and amalgamation of the races—doubtful in his own mind, which is the superior, and to eventually obliterate the other. A late decision in the Supreme Court of the United States, widely adverse to so debasing a conclusion, or the tendency to such result—so far from banishing any attempts to bring it about through practical action and experiment, will but accelerate it—or rather induce more marked and energetic efforts to achieve that which nature abhors, and against which she has placed her fiat.* In California this sentiment is being actively and tangibly increased of late, by a large party favoring the admission of the sworn testimony of the various dark skinned species of our heterogeneous population, in the Courts of Law. As a natural consequence, should this step be crowned with success; the next will be to place such on an equal political footing. This must naturally confer eligibility to and bring success in office holding; when of course Sambo, Chin Fo, Kamaho, Digger O, with mongrel crew of every hue, having equal power and influence in the State, will demand social equality; and then commences the Hon. Speaker Banks' era of good fellowship between the white and colored biped animals in our land, which is to work out the GREAT "absorption" problem.

Yes! ye women of Caucasian lineage; if not you, your daughter descendants must ere long consent to be enfolded as brides in an Ethiop's brawny embrace, and become the dams of a rising breed of tawny hybrids. Such must inevitably be the finale or attempted finale unless speedy check, through a wholesomer public opinion, be placed upon every and all the damnable ideas, intents and attempts of

*See note page 32.

these ignorant, vulgarian, ignoble advocates, for breaking down the barriers betwixt them, and intermingling all the various castes and types of mankind.

It is well known to every intelligent reader, that this hue and cry against the enslavement of *Africans*, had its origin in old England, and thence transplanted, for a purpose, into New England; where, finding a more congenial soil still, this philanthropic humbug and cunningly seized upon leverage and weapon, by means of which the Round-heads and their motley allies hope and expect to subdue and rule the Cavalier forces and country—has taken deep root, and scattered its foul seeds, and spread its noxious growth throughout all the rest of those States, pretendedly loving, but most intensely hating Negroes.

And for what reason did England start this ball and sacrifice what she has to keep it rolling? I will tell you. She has a two-fold purpose to accomplish—the disruption of our confederacy—the destruction of our Democratic Republican form of government. The first, because she is jealous of our rivalry and growing greatness—fears our strength and eclipsing her in the rank of nations, and likewise seeks to deprive the North of the vast commerce and carrying trade of the South. The latter, that the failure of our “experiment,” may early prove to her own citizen subjects the fallacy of popular rule, universal suffrage, etc., and thus quiet the rising spirit of disaffection and revolution, which at times, is heard muttering rather loudly down among the lower grades of her class society. If Britain be wise, she will neither go to war with us herself, nor suffer any other power to do so. With peace she will soon effect her double object; while war will but cement us, and prolong the existing order of things. Though of this, English statesmen are fully aware.

This latter view of such question leads me to speak in reprobation of the most unwise and unphilosophic policy sought and vainly attempted to be pursued, in reference to the Mormon settlements in Utah Territory. If necessary, I could adduce the teachings and testimony of Christ and his apostles in opposition to this insane crusade, and continued cry for the strong arm of government to put down the hierarchal sway of prophet Young and company—disband their followers, and thus make an end of the latter day saints faith. But my sole appeal will be to the common sense of mankind and lessons in history. If Mormonism be so greatly wrong as represented (and I shall gainsay naught that’s alleged against its votaries,) let it alone, and the evil will soon cure itself, since it must contain internal, its own seeds of

decay and dissolution. But wage a war of compulsion or extermination against this sect, and you strengthen it. The cry of persecution will be raised, which not only will quiet their internecine discords, and harmoniously unite them, but create sympathy outside of their ranks to sustain their cause.

And wherefore this terrible howl in opposition to Mormon iniquity—this indignant denunciation of the social relations and internal policy of a people, sojourning far away in the wilderness of deserts, detached from all else, and therefore not likely to taint by contact, the saintly purity of the rest of our population? I will tell you why. It arises from three causes. First an inherent love of power in the human breast, and ever itching desire to be making war on somebody. Secondly, that Yankee-like inquisitorial spirit, and prying interference with other people's business. And thirdly, most of these purifying zealots, and advocates of a foray into Mormondom, are prompted by a consciousness of self-wickedness, which seeks a salvo, and also to draw off the world's attention from themselves, and find some scape-goat, upon whose back they can saddle sins of which they are equally as guilty. At least this latter charge I can bring to the door of those virtuoso editors and others in California—who are well aware, that vice and immorality of whatever species, cannot be worse nor more prevalent in Salt Lake City than in San Francisco. In fact, I question not but the purity of morals in Deseret will compare quite favorably with this State generally.

So far as the Mormon religion goes, I think it the most orthodox of all Bible, or so-called christian creeds, now extant. At the same time reprobate as much as any, their polygamous wifery, which is contrary to nature's edicts, and which my old cotemporaneous Roman prototypes, in opposition to Judaical customs—those of Jehovah's chosen favorites, so taught mankind by precept and example, and by law enforced. Strange indeed to hear sticklers about State and Territorial rights in any part of our confederacy, and especially those in this country, who last year so strongly deprecated intervention on the part of the General Government, in the Vigilance revolutionary movement—now advocating an army being sent to make war on the inhabitants of Utah.

Return we again to these occidental shores—to our own adopted home, where there is loud demanded need for all the superabundant charity and spirit of reform, these intermeddlers in foreign parts, Boor-aboola Gha philanthropists, proselyting missionaries, and also that

which all others who are well wishers of the country, can bestow upon it.

Ambrosial breezes fan our hesperian plains, as balmy and odoriferous as far famed spicy gales, wafted o'er oriental lands. Not fair Italia, nor Araby the blessed, can boast superiority to this gorgeous and resplendent sun-clime. Nor do the rich deltas of the Ganges, Nile, Po or Mississippi, surpass our soil in fertility. Waiving all inclusion of that blighting, mill-dewing curse, to this beautiful land—its emboweled golden treasure, which existence I can compare to naught else than the tree of evil planted in the garden of Paradise; and discovery of which, was either a project of the Devil or his sister Pandora—never did nature bestow upon a spot of this earth such bountiful blessings, as here naturally exist, and are capable of being produced and enjoyed by man.

Flora, Ceres and Pomona, have striven to outvie each other in their gifts. Flowers of every sort and hue as brightly bloom, as if in Eden's garden. High above the forest giants of other countries, tower our lordly mountain pines, and wider branch the hoary oaks of the valley; whilst ornamental trees of every variety to please the eye and shade afford from the noonday's burning rays, are seen, with healthiest verdure, within the precincts of this city. And while many fruits of tropic growth find with us congenial earth and air; those of all other kinds, and every species of grain and grass, and useful vegetable product, which are indigenous to the various soils and climates of the encircling temperate zone—in California most luxuriantly flourish. It is the land above all others for the production of silks and wines. Here grow the orange and apple, peach, pomegranate and grape—the quince, lemon, almond, figs, olives, pears, plums, cherries, and shrub and vine-producing fruits and berries of all kinds. Likewise may be raised, with much perfection, those three great staples, cotton, rice and sugar. Here too, the most nutritious of grains and herbage, and a mild, equable, though bracing, healthy, fruitful and vitalizing atmosphere, present proof of this country's peculiar adaptation for propagating almost all manner of mammalia.

Already the brute portion are most rapidly improving in breed. Man alone is not progressing, nor yet contented amid all these advantages and ministering delights. And wherefore this? Because here so deeply sin-inoculated, by reason of his haste to grow rich, his eager, restless, impatient longings and unscrupulous means used to obtain money—his abandonment of all high sense of honor, cultivation of

virtue and intellect, and sinking himself down to a mere animal aspiration and indulgement of a depraved sensual appetite—he is induced to forsake the true paths to happiness, abandon his high destiny, and contaminate and turn to bitterness, all things he touches.

Hither lured by a promised glittering prize, flocked hordes of adventurers from every coast. No fears of death, privations and toil, nor dread of dragons, deterred them in their search. Landing on our once happy shores—Eureka! was the exultant cry of all. But a change has come over the spirit of your dreams, and loud now are your lamentations of pain and disappointment. For instead of gathering the golden fruit of the Hesperides, you have grasped but Dead Sea apples—beautiful without and enchanting to gaze upon in the distance, but all rottenness and ashes within.

Conscious long since of their dark impurity, and the great necessity for regeneration and reform in our social, political and business relations, the cry was raised—let's build churches and bring out the gentler sex, in order to moralize and refine us—the absence of these is what makes us so bad. Well, in time came both, but of what avail—are we better grown? Has the joint mission of religion and women been successful in staying the leprous tide of corruption flooding and percolating throughout society? Far, far from it, as my too sad and truthful portrayal of the condition of affairs examples.

The sanctuary is desecrated by a set of sham worshippers, who, after swindling and defrauding their neighbors six days during the week, vainly hope on the seventh, through empty forms and ceremonies, by cold lip service adoration, and paying indulgence money to their pastors*—to deceive that God, to whom they ignorantly pray and render hypocritical homage. Whilst instead of suffering the other sex to elevate, chasten and better them, they defile and drag her down, so far as possible, to their own sunken condition.

Woman! I appeal to you for aid, I call upon you to do your duty. You have most at stake. The idea entertained by many, that your sex can remain chaste and pure while men are so depraved, is fallacious. The sexes mutually influence, act and react each upon the other. Yet amid the prostration of virtue and wreck of character,

*Witness the apologetic sermons of these pastors, who for a goodly salary, will, and do palliate the worst evils of our society, and therefore encourage and increase, instead of helping to eradicate the wickedness of the land. Thus did not preach Christ—(see a discourse of the Rev. Mr. Benton, since delivered from the same pulpit this oration was. The public can decide in which the more truth was told about the condition of affairs in California.)

yours is last to become contaminated. Your finer organism, more delicate appreciation of the true and beautiful, and higher admiration of what is good and noble, makes you superior and better than man. To preserve this superiority—to hold intact these loftier and distinguishing attributes of your sex, a corresponding characteristic must be preserved in man. Your high perfection and potential sway, comes from your delicacy of feeling and gentleness of manner; and these have their birth, education, and preservation in the great principle of love.

All women have naturally an exalted opinion of honor and manly spirit, and bestow their admiration and heart's best affections only on those of the other sex, whom they esteem brave, generous and truthful. Let it once be believed by you, that your fathers, husbands, brothers and lovers are no longer governed by honorable sentiments—then farewell soon after to your own fair fame. Down from that high estate a true woman should occupy will you fall. For having no object to admire—none upon whom to place your love—your hearts will soon grow cold—the fountains of your affections become dry; and from that lofty position once held, you lapse to be the mere instrument of man's lust, and serve him as a toy and menial, or else, if of a masculine turn—"strong minded" enough, and too proud and independent to occupy such a relation to these degenerate lords of creation—you may assert your equality with him—as some have already done in a certain quarter of our country, where these causes do exist, which have very naturally and properly driven them to unsex themselves.

The first wish of your natures—the innate paramount desire of your whole sex, is to be lovely and beloved. In the adornments of dress, woman has it much in her power to afford an outward exhibition of a refined and cultivated taste. Such a manifestation is legitimate, except where she goes beyond the income of her proper provider, and permits a too great fondness for rich and costly apparel, to run her into *dangerous* extravagance. But it is in beautifying the face, in rendering more attractive that index of the mind, where so many of you mistake the true secret of embellishment. Not in carmine coloring nor powder of pearl does it lie, nor yet in that far preferable mode of rosy-ing the cheeks and lillying the skin—healthful exercise and correct habits; but by imbathing the heart in virtue's holy water, to lave away its every stain and blemish—in blanching the soul of all impurities, and painting it in the mellow tints of truth, modesty and amiability,

and gentleness. These, which are fadeless even in old age, will mirror forth in the countenance—in the sweet expressive mellifluous whispering lips, but more so in those soft-speaking, love-illumed window orbs, through which shine the magnetic rays of the heart, the spiritual essence of the soul—the genuine emotions that rest within.

There can be no external beauty in woman, nothing loveable about her, for man to look upon—to engage and *hold* his affections, unless a corresponding beauty of character dwelleth interior.

Would you preserve unpolluted and perennial this sacred well-spring of the affections—this only source of all real beauty—would you be the wives of men you can look up to, and love and honor, and be the mothers of sons and daughters you shall be proud to own, and fear never to trust them to go through life's temptations, untainted with crime, and like the mother of the Gracchi, exhibit such as your most inestimable jewels—then do I implore you by all that's holy and true, by all of good you can hope for in this life and the one to come, for sake of yourselves and those you hold most dear—to engage at once in this task of reforming our most corrupt, gross and impure society.

The world abroad already terms us a grand congregation of knaves, and judging from our acts and the exhibit we make, the world is justifiable in so thinking and declaring. If the great mass of men in California are tempted to become rogues, the women here, will as a natural consequence turn out—what the consorts of their sex with rogues always are.

'Tis said that women, not men, rule the world; but in no country have such sway as in our own American land. California has formed no exception to this—few comparatively of your sex are here. But you my chaste sisters, have thus far had but little share in the government. The fallen ones, so termed, have usurped your prerogatives, wielded the sceptre of power, and occupied a much more influential position. Queens instead of Queens, gamblers and their lemans have been crowned rulers over us all.

We have no honorable public sentiment in California, no sound popular opinion, no outward incentives or rewards to do good, no safeguards nor fostering protection thrown around truth and right—in fact there is no elevated, high-toned society at all—and the women are much to blame for this. You have felt and known the great necessity of reform, yet striven not to achieve it. For there is about you, of finer feelings and genuine womanhood, a delicacy of sentiment, a love of home quiet and home virtues, which causes the unrest, turmoil,

excitements, grossness and depravity of California society, to be anything but agreeable to you. It has little charm. You are dissatisfied at heart, disguise it as you may, and long for a return to the happier scenes of your old abodes. But the most of you will never go back, therefore resolve at once to bring all your energies and influence to bear upon the great work of making your new-found residence correspond so far as possible, with that you have left behind, or even better it.

But my fair countrywomen, this work of regeneration, this reform movement on your part, must early be commenced. Dark is now the night that glooms over us—portentous the coming storm; yet hope whispers me, we approach an effulgent morn; but blacker still must grow the sombre shades ere break of day shall come. The demoralization of society in California still goes rapidly on, and even with increased impetus. Would you stay its progress—save yourselves and others, those whom you wish to love and be loved by in return—then quickly up and be doing. Widely different and more discriminating must be your intercourse with men. Your parlors and home circles must be kept unpolluted by the company of those notoriously known to be dishonorable, unmanly and mean. If in the heterogeneously mixed, vulgar, immoral and lowered tone of public sentiment, your male relatives should think themselves bound to, or thoughtlessly, or ignorantly introduce such to your acquaintance, take the responsibility of ignoring it so soon as possible, and thus drive them from your presence. If truthful and pure minded yourselves, you can with rare exceptions, always tell whom thus to treat and who not. You may learn much of truth about your visitor, if discriminating in judgment, from general reputation—but much more safely trust to your own instinctive perceptions and physiognomical readings, after you shall have seen the face, person and manners of the man, and listened to his conversation.

And on you, mothers, devolves especially another important duty—the early rearing of your offspring—the implantment, or rather fostering in youthful breasts of those sentiments of honor, which are to make the good and useful citizen. Early train your sons and daughters in virtue's ways; for upon them will rest in a few short years, the duties of state and society. It is terrible to think of the education the rising generation is now receiving in California. It promises a dire future. "Tell me," said Edmund Burke, the great English orator and statesman, "What are the sentiments that occupy the minds of

your young men, and I will tell you what is to be the character of the next generation." Look at our young men in this State, (and unfortunately for the country, there are hardly any else than young men in it, and they most all disposed to set at naught the counsels of what few elders are here) of reckless, dissipated, spendthrift habits, many, or most of them—others eagerly seeking after and laying up gold with miser-like covetousness—with moral perceptions blunted, no high and noble aspirations, no cultivation of their minds, their whole natures, material and selfish, tastes depraved and all the finer qualities of character, generous sentiment and refined sensibility scouted at—what, I would ask, is society and government to be a few years hence, unless the present poisoning influences be early suppressed, and a wide departure from the existing course of action taken.

In connection with this subject, there is a matter of deep importance, to which, on the present occasion, I would make slight allusion. I approach it with some delicacy, since it requires as much boldness to assail, false as the institution is, as to attack the religion of a people wedded to their faith. Nevertheless, a firm conviction of the truth I shall utter regarding it, impels me to the task of duty. I refer to the much boasted public school system—a plan of education deeply wrong in principle, and one of the chief causes sapping the virtuous supports of society, and hastening the subversion of the State.

Intellectual attainments, book learning, are not alone necessary to make the good citizen. There is a parental teaching, and more especially maternal, which is indispensable. It is the heart culture, the instillation of sentiments of honor and truth, of the feelings of love and affection.

Does not this common school system tend to destroy that mutual sympathy and dependence between the parent and child—to cause the one to withdraw his solicitude and watchful care over the advancement and well being of his son, while it induces the latter to lose that due respect for, and dependence on his parents, and makes him look to the State as his guardian and educational provider. And does not this disturb that beautiful system of home government, and make innovations upon its sacred relations. Does it not tend to increase that already pernicious influence in our land, worse than in any other country on the globe, of boys disregarding the authority of their fathers, or advice of elders and mentors, and assuming a precocious manhood—which causes them to lose respect for grey hairs, and no longer revere old age.

Another serious objection to these schools, and their public *theatrical* exhibitions,* especially in this gross and beastial society of ours—is the tendency to destroy all modesty and delicate sensibility in girls—to afford opportunity for improper conduct, and thus remove all those safeguards, which even in a purer land, are thought necessary to hedge round the chastity of woman. Moreover I oppose this educational plan, especially in the United States, because the fund supporting it, selection of teachers, and whole conduction of the institution, is in the hands of the party political machinery of the country; when, of course, like other offices, the greatest asses and most venal demagogues in the land will have the supervision and control of this sacred trust.

And lastly, I deprecate this most appropriately termed *common* school system, because it is another and powerful appliance to haul down everything to a common vulgarizing level.†

And now, in conclusion, fellow-citizens, let me ask of you to seriously ponder over the important suggestions I have this day presented. Let me invoke you to arouse yourselves from this dangerous lethargy, and also mistaken idea about the great evils afflicting our society, being cured without some active new measures and strong remedial applications. Let me call on you who wish for better times, to come forth from the stagnant putrid pool, and the slough of despond, and cleanse your brains and hearts, by determining this day to inaugurate

*Per example—a recent performance at the Forest Theatre in this place, which, though an entertaining exhibition, was calculated to give much pain to those who looked deeper than the surface, upon such a departure from propriety. And who think you, reader, were the parents of these young lady amateur actresses on that stage, and other getters up of the affair—in a play-house, open at a dollar a head, to every frequenter of such? why none else—at least a portion—than those sanctimonious saints from Boston and adjacent demesnes, who back in their own native land not long since, thought it a heinous sin for even themselves to cross the threshold of a Thespian temple.

Thus do a people, unguided by sound reason and a pure enlightened code of morality, run from one false extreme to another.

†Since this address was delivered, I have read an article in the June number of Hunt's Merchants' Magazine, under the heading of "Public Benefactions," in which the author strongly maintains some of these views about education, yet seems fearful of coming out boldly to assail the common schools. In the same article is found the following truthful extract from some recent writings of Mr. Rowland G. Hazard, of Boston; who, likewise, most inconsistently sustains the public school system,—doubtless also prevented by moral cowardice, from questioning the beauty and perfection of this, New England's greatest pet:

"Governments should interfere as little as possible, with the sphere of individual duty. Every encroachment upon this, takes from the citizen opportunities for cultivating their virtue by practical exercise. Let all the charities of life be dispensed, and all noble enterprises be prosecuted by the State, and you destroy private benevolence and public spirit. The individual, dwarfed and shriveled, from want of that practical exercise of virtue which strengthens and liberalizes his nature, grudgingly pays what the laws exacts of him, without thought of its application. He neither know nor cares whether it is used to found a college, or erect a gallows."

a new era for California, in declaring our independence of the impoverishing and soul-destroying rule under which we have so long suffered. Let us, for the sake of this holy cause, resolve—like our revolutionary ancestors—to shake from our shoulders a burthen and bondage, far more oppressive, ignominious and debasing, than that from which they freed themselves. Be no longer deceived by this modern, newfangled, false and illusory cry about liberty and equality. Learn at once, that there can be as gross wrongs practiced, and as grinding a despotism established in a Republic, as in an absolute monarchy, or any other sort of government. And learn likewise, another great, though startling truth, which all history attests, that through a physical revolution alone lies the road to rectify such a condition of affairs as now exists in California.

Even as myself would I have you act; unshackle and sever yourselves from all political, party and personal ties and allegiance, and advocate boldly and independently, the cause of truth, and your country's best interest, accordingly as your honest convictions shall dictate.

Excelsior! I cry to you. Be men—be freemen and patriots, as I know you none can, so long as you permit yourselves to be made mere puppets, manikins, to be moved at the will of artful, scheming, political blacklegs; since what matters it which of these shall win the game, as, in any result, yourself and country must lose.

For a time I stooped from my present proud and elevated position, to battle for the truth, in, with and against party. But instead of conquering, my cause has thus far been most badly defeated. Yet it has not been time nor labor altogether lost, for I have proved to my satisfaction, that all such efforts are fruitless, hopeless, in vain, until radical, organic changes be first effected. And you, too, in time will all find this out.

O! that glorious freedom,—that new found paradisaical existence on earth, in which revel the pure hearted, after passing through many trials and temptations,—unlearning the false teachings of their previous years, and, with nerve sufficient, determining to do and dare all things a clear head and clean conscience shall decree is right and proper. As sons of light and the elect of highest heaven, they shout for joy, and alone may boast of being truly free. Aye, free as the lark that mounts to meet, with carol sweet, the dawning beams of morn!—free as the eagle which soars aloft to lave its wings in the ether of our upper air, and scream forth his notes of liberty!—free as the swift-footed Ante-

lope, which unconfined, bounds fleetly away over our wide, extended, interior plains ! For then, with actions untrammelled, and uncontrolled, save by one's own independent, properly restrained will ; with mind, and tongue, and pen, released from the abject, soul-cramping servitude to which an ignorant, bigoted and impure society compels so many to bow, and bend, and smother their heaven born thoughts—the impatient, imprisoned and struggling spirit, will rise from its hitherto chained and forced to be groveling position, and on the wings of love and hope, fly through all space, to seek and hold communion with that mighty Deific principle, which pervading all matter, creates all life, and through study of, and commingling our souls with which, the reasoning, thinking mind in its longings for immortality, can alone be made satisfied, that in accordance with the immutable law of progression, purification and growth towards perfection, the spiritual man will yet live, after his earthy encasement shall have mouldered back and mingled again with its mother element.

This was the religion of the great master spirits who planned and achieved the American Revolution and Independence. 'Twas the reason, faith, of a Washington, Jefferson, Hamilton, Marshall, Madison, Paine, Franklin, Adams and Henry. It is the religion of nature, revealed through her harmonial laws and beneficent manifestations, and taught convincingly by analagous correspondence and inductive process to the higher faculties of mind. It was the religion of Christ. It is the religion of God, because God itself—the sole revelation of things divine earth's mortals have, or ever will receive, and accordingly as man's heart becomes impressed and filled with it, does he see and *feel* truth, and enunciate such to his fellows.

It was this order of religion which gave wisdom to the minds, and imbued with such stern principles of integrity, incorruptible patriotism, unyielding spirits and indomitable wills, these heroes and demi-gods of that revolutionary era, whom we, their descendants, should apotheosize and in a mind-built Pantheon, erect altars and statues, where by rendering them divine honors, we may learn to imitate their examples and emulate their virtues.

*Papers by the last mail, received since this oration was spoken, bring news of a law lately introduced into and which will doubtless pass the New Hampshire Legislature, nullifying this decision of the Supreme Court,—placing all colors and conditions of men in that State on a perfect equality in rights, and claiming for such the same citizen privileges in all the rest of the States.

